



Commission & Council Quarterly Report

Inside

Administrative Report

Executive Director.....1

Statistics.....4

Legal Director.....4

Agency Priorities.....5

Program Reports

PADD.....10

PAIMI.....24

PAIR.....33

CAP.....40

PAAT.....45

PATBI.....47

PAVA.....51

PABSS.....54

Multiple Program
Projects.....57

IPAS Commission.....61

IPAS MIAC61

IPAS Staff.....62

Acronyms..... 63

Administrative Report

Fourth Quarter July 1- September 30, 2014

I. EXECUTIVE DIRECTOR

Acting on NDRN recommendations identified during the 2012 review was the focus of much of the quarter.

The need for a system that tracks attorneys' time and work in cases was resolved and was being implemented by the quarter's end. The solution to this issue centered on the purchase and implementation of Time Matters, software designed specifically for the attorneys' use that offers case management as well as time and expense tracking. At the conclusion of the quarter, the software was being rolled out among the IPAS attorneys with full implementation expected by the end November 2014. Thus, the roll out of the case management software should be seen as resolving and completing item # 54 of the Commission's document.

Additionally, more mechanisms were implemented for tracking case lengths in the form of redesigned reports that has resulted in increased supervision and focus on those cases assigned to advocates identified as outliers. This has resulted in a substantial decrease in the number of cases open longer than a year; FFY 2014 began the year with 16 such cases and ended the year with three. Recent changes moved the reporting of outliers to identify those cases exceeding nine months in age, resulting in FFY 2014 ending with only 12 (6%) cases meeting the new threshold being carried over into FFY 2015. This corresponds to item # 42 in the Commission report.

Considerable time and effort was devoted to understanding, analyzing and preparing procedural changes concerning the fiscal reporting of the agency to the Commission and MIAC, per the recommendations in the Commission report, items # 14, 27 and 28. The prior reports provided to the Commission were not based on the federal fiscal year nor were they detailed enough to allow relevant understanding of the agency's expenses. For example, in some quarters, 20% to 30% of agency expenses were identified as other/miscellaneous. This greatly inhibited worthwhile analysis to determine agency expenses and monitoring of those expenses. The initial versions of the agency and program expenses were distributed in time for the August Commission meeting. A new format addressing the agency's budget was developed and prepared for the November, 2014 Commission meeting. This detailed analysis of the agency expenditures was done in part to identify those disbursements that would be strictly unallowable under the federal Office of Management and Budget's (OMB) new regulations. Starting October 1, 2014, the number of categories used by IPAS fiscal was increased to permit meaningful identification of IPAS' expenses.

Administrative Report

From July 21-25, 2014, IED along with the fiscal officer attended the NDRN Fiscal Manager Conference. The major topic of the training focused on the new OMB regulations, which would become effective some time after December 26, 2014. These new OMB regulations address the administrative requirements, unallowable and allowable uses, cost principles, and audit requirements for any agency receiving federal awards. Additionally, training addressed the SAMHSA cost principals required for any PAIMI program.

On August 18, 2014, the IED met and provided an orientation to the new MIAC appointee, Ms. Dayna L. Switzer.

The IED participated in the Health Resources and Services Administration (HRSA) Grantee Quarterly Conference call held on August 25. HRSA is the federal administrator of the PATBI program.

On September 8, the IED participated in the NDRN CEO Quarterly Conference. Topics covered included guidance in addressing the directives from SAMHSA in completing the 2015 PAIMI grant applications, which instructed that PAIMI's 2015 Priorities and Objectives were "not [to] refer to any other federal programs and legislation ... no Americans with Disability Act issues, no education issues."

On September 9, the IED attended the Governor's Council for People with Disabilities board meeting. IPAS, the Governor's Council, and the Institute, known collectively as the "DD Network," work closely together on mutual goals. IPAS' representation on the Council helps IPAS work in partnership with the Council and the other agencies represented by Council members and affords an opportunity to network with our allies.

On September 22, IED, along with the Legal Director and the agency's fiscal manager, attended the exit conference of the Indiana State Board of Accounts (SBA) bi-annual financial audit. The on-site physical audit ended July 3, 2014. This review specifically concerned IPAS's activities from March 1, 2012 to December 31, 2013. IPAS filed its official response to the SBA Audit finding on September 30, 2014. To date, the report has not been finalized, and thus is not available for review. In their initial report, the SBA auditors did not report any substantial findings of non-compliance; however, there were comments on a few areas that the auditors suggested that IPAS address to improve internal cost-control measures and documentation.

Staffing issues continue to be an issue requiring attention. During the first week of the quarter, IPAS' Legal Services Director returned to full-time status. In addition, IPAS was notified that a staff advocate would be unavailable to work for at least three months causing the need for the management team to shuffle current staff assignments. On August 29, Ms. Sondra Poe, a 20 plus year member of the IPAS staff, retired. In preparation of Ms. Poe's departure a temporary clerical staff member, Ms. Diane Morris, was interviewed and hired. The hiring of a short term administrative support staff would allow the eventually hired Executive Director the latitude to establish the parameters of their choice for the position being vacated. Most recently, Ms. Judy Wade, the current fiscal officer, informed the IED that she had finalized the paperwork to begin her retirement on January 1, 2015. Ms. Doris Thompson-Wilson, our current accountant clerk has begun cross training to help ensure a smooth transition following Ms. Wade's retirement. Research was begun concerning the future needs of the agency regarding the position and its role in the agency. In September, the IED successfully converted a currently open position to that of an Advocate 3; the hiring process began by the quarter's end. Once this position is filled, it will increase the number of advocates to 14.

Fourth Quarter July 1- September 30, 2014

Administrative Report

On September 12, the IED accompanied Ms. Thompson-Wilson to the Governor's Reception honoring long-term state employees. Three of IPAS' staff: Ms. Thompson-Wilson, Ms. Dulla, and Mr. Whiteman all were honored for 35 years of service to the citizens of Indiana.

On the financial front, IPAS received its PAIMI 2014 final award notice on September 26, 2014; no additional monies were allocated to IPAS. For the year, IPAS received \$2,179,041 in grant funds, compared to \$2,135,857 last year, a 2% increase. As in prior years, there was no pre-warning of our full year's award amount until IPAS had received the final award notice.

	Federal Award (FFY 2014)	Federal Award (FFY 2014)	Beginning Fund Amount on 10-1-14 (Carryover)	% of carry over
CAP	\$ 211,102.00	10%	\$ 84,940.93	40%
PAAT	\$ 69,786.00	3%	\$ 65,297.26	94%
PABBS	\$ 100,000.00	5%	\$ 77,491.81	77%
PADD	\$ 764,876.00	35%	\$ 405,343.74	53%
PAIMI	\$ 606,534.00	28%	\$ 381,852.34	63%
PAIR	\$ 304,982.00	14%	\$ 136,664.37	45%
PATBI	\$ 51,761.00	2%	\$ 12,803.00	25%
PAVA	\$ 70,000.00	3%	\$ 240,266.97	343%
Agency Total	\$ 2,179,041.00		\$ 1,404,660.42	64%

Spot Bonuses were awarded to one staff during the quarter in the amount of \$100. Please see the Spot Bonus Report included in your meeting packet. Note the spot bonus year currently runs from April to March.

Client Grievances: Three client grievances were received this quarter: one PADD, one PAIMI, and one PAIR. The IED affirmed the decision previously made by IPAS staff in two of the three cases. In one case, the IED was prepared not to uphold the decision of the staff to close their case; however, the client was unwilling to have their case reopened. In two cases which the IED upheld the decision of the IPAS staff, the complainant chose to appeal the IED's decision. In one PAIR complaint, the Commission chair upheld the IED decision agreeing with the initial decision not to provide requested legal representation of an executrix of an estate challenging her ability to continue as the executrix. In the PAIMI complaint, the IED, citing the current IPAS litigation, upheld the decision not to provide legal representation for an IDOC inmate wishing to pursue a separate lawsuit concerning the care and treatment within IDOC. Their appeal to the Commission chair occurred during the concluding week of the quarter; a final decision of the Commission chair was issued in early October upholding the IED's decision.

The year ended with a marked increase of services to consumers by IPAS compared to the prior year.

Fourth Quarter July 1- September 30, 2014

Administrative Report

	% increase from 2013 to 2014
Total number of clients served via service request.	10%
Total number of service requests (cases) worked.	11%
Total number of I&Rs handled.	7%
Total number of Trainings conducted by staff.	92%
Total number of Outreach events conducted by staff.	17%

II. STATISTICS (Agency Wide)

	4th Quarter	For the Year
Informational Inquiries	556	2130
Cases Carried over from Previous time period	198	221
New Cases Opened	80	348
Total Clients Served	278	569
Total Number of Individuals Served	834	2699
Cases Closed at End of time period	95	386
Cases on Hand at End of time period	183	183
Visitors to IPAS Website	16,632	69,396
Total Number of Publications Distributed	11,093	29,352
Total number of General Public Information Events (booths)	8	33
Number of Individuals attending	18,458	22,086
Education/Training Activities	49	159
Total Number of Individuals Trained	841	3,035

III. LEGAL (Agency Wide)

A new case management software platform, Time Matters, was installed. The program will better allow attorneys to manage case files and track time for the purpose of seeking attorney's fees. Additionally, the process for seeking and collecting attorney's fees was reviewed and revised.

Four State Forum: The New HCBS Rule: IPAS Legal Director and other Indiana providers, advocates, and stakeholders joined with counterparts from Illinois, Ohio, and Iowa in Chicago, Illinois on July 14, 2014. The purpose of the meeting was to discuss the new CMS rule regarding Home and Community Based services (HCBS). The groups' comments were generated into a report for a representative from each state to bring to CMS for consideration in preparing guidance for implementation of the new HCBS rules.

IPAS provided information from an advocacy perspective regarding people in Indiana utilizing the CIH and FS waiver and how the new rules from CMS impact those programs. This information was combined with information from other stake holders in Indiana and was entered into a report to be presented to CMS for its use in drafting guidance regarding the new HCBS Rules.

Administrative Report

Community Engagement: On July 8, 2014, IPAS Legal Director provided written and oral testimony for a local ordinance proposal that would include source of income as a prohibited means of discrimination in housing, among other things. A full description of the project is available in the Multiple Program Projects section of the report.

IPAS Legal Director met with the new Executive Director for Adult Protection Services to establish an open line of communication and to promote collaboration with the regional APS offices. Following that meeting, IPAS Legal Director was asked to meet with the staff from the APS regional office covering Marion, Hamilton, Boone and Hendricks County. This meeting resulted in a more direct way for IPAS staff to contact APS investigators and informed the APS staff about IPAS and the services we provide in order to facilitate referrals and collaboration on investigations.

During the quarter, IPAS Legal Director met regularly with Anne Davis, Director of the Bureau of Quality Service (BQIS). The meeting provides an opportunity to collaborate and address concerns in a proactive forum. It is anticipated that these meetings will continue.

The Legal Director met with the director for HANDS in Autism to learn more about their projects and resources available as well as to inform the provider and staff about IPAS and our services.

The Legal Director also attended all scheduled meetings for the Mortality Review Committee and the Indiana Adult Guardianship Task Force. Descriptions of those meetings are available in the Multiple Program Projects section of the report.

IV. PRIORITIES AND OBJECTIVES

Priority 1: To assure the provision of high quality advocacy services.

Objectives:

101 Maintain or exceed 85% affirmative ratings of all responses on all assessed parameters of the Information and Referral Customer Satisfaction Survey.

During the quarter, 68 (17%) recipients of IPAS's Information and Referral Services were included in the survey. Of those who responded, 98.5% indicated that they found IPAS information useful and 98.5% of the respondents indicated they would call IPAS back.

For the year, IPAS has sampled 15.6% (goal is 10%) of those that received information and referral services, of which 98.6% found the information provided by IPAS to be useful and 97.7% indicated that they would call IPAS again.

102 Maintain or exceed 89% affirmative ratings of all responses on all assessed parameters of the mailed Customer Satisfaction Survey for closed cases.

For the quarter, 25 closed case surveys were returned. Of those responding, 84% indicated that IPAS staff did what was promised, 88% reported that IPAS staff were responsive in timely contacts, and 92% would seek assistance from IPAS again in the future. Thus, for the quarter, IPAS' aggregate rating was 89% affirmative.

Administrative Report

For the year, 73 surveys (19% of all closed cases) have been returned with an aggregate rating of 93% affirmative.

Priority 2: Outreach to the public and to individuals with disabilities, concerning disability rights issues, IPAS services, and successes.

Objectives:

202 Develop and disseminate information regarding disability rights.

There were a total of 49 agency-wide education and training events, eight public information activities to provide disability rights information, and IPAS services were introduced to approximately 19, 299 individuals in the fourth quarter.

For the quarter, 11,093 publications were distributed.

203 Continue development of web-based resources to empower individuals and families.

During the quarter, IPAS' Facebook page increased by 23 likes to 299. The IPAS E-newsletter's distribution list increased by six and is now being distributed monthly to 471 individuals. Additionally IPAS increased the number of Twitter followers by 17 to 72 followers.

During the fourth quarter, the IPAS website had 8,621 visitors and 16,632 page views.

The site had an average of 100 visitors per day, while 5,575 visitors during the quarter were new to the site. On average, visitors stayed on the site for 5 minutes 45 seconds per visit and viewed 1.71 pages in that time, but 74.7% of visitors viewed only one page and then left the site (this is the bounce rate). September 3, 2014 saw the most visits (206) and the most new visitors (131).

The number of visitors directed to the IPAS website from:

52 from Facebook
36 from NDRN
23 from IDOE
0 from MHA of Indiana
4 from Autism Society of Indiana
2 from IN*Source

The software used to track activity associated with a website was upgraded and data from that site is reflected starting in the second quarter while data from the old program reflects only the first quarter. While the new program is considered superior in many ways, a comparison to prior years' data would need to be viewed with extreme caution as the method used to define and collect data has changed, thus, last year's data was not included.

Thus, for the FFY year the results of the combined data was as follows:

69,396 Page Views
38,570 Visits
34,320 Visitors

Administrative Report

204 Promote, preserve and maximize the rights of individuals with disabilities as the Affordable Care Act is implemented in Indiana.

There has been no progress yet achieved in Indiana reaching agreement with the U.S. Department of Health and Human Services concerning the state administration's desire to use the Healthy Indiana Plan to expand insurance coverage to uninsured Hoosiers. Note this objective has been modified for FFY 2015 to be more inclusive for all potential legislative actions that may affect the rights of individuals with disabilities.

Priority 3: Outreach to minority and underserved individuals with disabilities, concerning disability rights issues, IPAS services and successes.

Objectives:

301 Implement one project targeted to outreach to underserved individuals with disabilities, concerning disability rights issues, IPAS services and successes.

During fiscal year 2014, there were a number of presentations by staff to individuals that reside in nursing homes and who work in sheltered workshops. Both populations are seen as underserved.

IPAS continued its outreach to rehabilitation centers and hospitals in the state to increase awareness of IPAS services and to increase referrals in the area of assistive technology issues.

Two times during the year, information was provided to attendees of the Bosma rehabilitation program who have diverse racial and ethnic characteristics. All attendees experience blindness or visual impairments. A presentation was provided about individuals with disabilities that are affected by domestic violence and sexual assault. Both populations are seen as underserved.

In the fourth quarter a presentation was provided to parents of children with disabilities in foster care. A presentation on voting was provided to individuals that are deaf or have hearing impairments at Bosma Enterprises and staff participated in the 2014 Indiana Vision Expo.

IPAS brochures and publications are available on a CD as an alternative format.

The goal under this objective was to implement one outreach project to underserved populations. There were numerous outreach opportunities to underserved populations in FY 2014. This objective was exceeded.

302 Implement two projects targeted to outreach to minority populations with disabilities, concerning disability rights issues, IPAS services and successes.

During the year, IPAS presented to a number of individuals with disabilities, families and other members of the public in Fort Wayne which has a larger population of individuals of various minorities.

Pre Primary Election campaign - A voting rights information postcard was created, printed and mailed to an area of the state that has a large minority population (Lake County/Gary). Five thousand direct mail pieces were mailed one week prior to the May primary election.

Administrative Report

Family Voices Indiana - IPAS supported the outreach efforts of Family Voices this quarter by printing 1000 copies of each of their 17 Sunny Start Fact Sheets. Eleven fact sheets were printed in English and six fact sheets were printed in Spanish. The fact sheets were delivered to Family Voices for their outreach and distribution efforts in March.

Autism Society - IPAS has a collaborative partnership with the Autism Society of Indiana. During the year La Aliada de Indiana, the Spanish-speaking Ally connected with many individuals who needed support about autism in Spanish. Additionally, she worked on translating materials specifically about autism, as well as translating surveys and presentations about autism into Spanish and posting them on the Autism Resource Network of Indiana (www.arnionline.org).

IN*Source Bullying Prevention - IPAS collaborated on a Bullying Prevention training with IN*Source. Their staff conducted trainings throughout the year, including conducting this training in Spanish.

IPAS continues to prioritize outreach events in areas where the largest populations of individuals with disabilities from diverse ethnic and racial communities are present.

IPAS brochures continue to be printed in English and translated to Braille or Spanish when needed.

This objective was exceeded in FY 2014.

Priority 4: Provide the public with opportunities to make comments and suggestions concerning agency priorities and objectives.

Objectives:

401 Solicit input through the continued development of web-based resources to allow multiple means of submitting comments.

The proposed Priorities and Objectives were posted on the IPAS website with a call for comments and suggestions. No additional comments were received, which was conveyed to both the Commission and MIAC prior to their August meetings.

402 Publish and disseminate an annual IMPACT Newsletter and invite readers to submit comments.

Two thousand copies of the annual IMPACT Newsletter were printed during the first quarter and distribution at events has continued.

403 Provide opportunity for members of the public to comment about priorities and objectives during an annual public meeting.

The opportunity for the public to comment occurred during the August Commission meeting. The proposed priorities and objectives were posted on the agency website in June.

Administrative Report

404 Gather input as to critical disability rights barriers.

The results from the survey, which were obtained during 2013, were provided to the Commission and MIAC prior to the February meetings. The current contract with the Indiana Institute on Disability and Community (IIDC) will expire February 28, 2015, thus a final decision concerning the contract must be made prior to end of the 2014 calendar year.

Priority 5: Maintain a pool of qualified and diverse individuals who are eligible for appointment to the Commission and the Mental Illness Advisory Council.

Objectives:

502 Consistently maintain a pool of at least five qualified persons who have completed the prerequisite actions and are eligible for Commission appointment.

During the fourth quarter there were five eligible candidates for the Commission. On September 27th, Mary Hunnicutt was appointed to the Commission.

Outreach efforts continue at events, in the IPAS monthly E-Newsletter, on Facebook, and Twitter, etc. to recruit interested candidates.

An email is sent each quarter before the Commission meeting to eligible candidates to remind them of upcoming meetings and to invite them to attend. A copy of the quarterly report is included. Application packets continue to be sent to interested individuals.

503 Consistently maintain a pool of at least five qualified persons who have completed the prerequisite actions and are eligible for MIAC appointment.

At the conclusion of the quarter there were six eligible candidates for the MIAC. Emails are sent each quarter before the MIAC meeting to eligible candidates to remind them of upcoming meetings. A copy of the quarterly report is included.

Outreach efforts continue at events, in the IPAS monthly E-Newsletter, on Facebook, and Twitter, etc. to recruit interested candidates.

Administrative Report End

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

I. STATISTICS

Informational Inquiries	131
Cases Carried over from Previous Quarter	76
New Cases Opened	27
Total Clients Served	103
Total Number of Individuals Served	134
Cases Closed at End of Quarter	46
Cases on Hand at End of Quarter	57

II. REPRESENTATIVE CASE

“Rebecca,” age 46, resided in an ICF/IDD (intermediate care facility for individuals with intellectual and other developmental disabilities) group home and alleged that a staff person slapped her in the face. IPAS’s investigation determined that Rebecca had reported the incident to an Indiana State Board of Health (ISDH) surveyor and also that she had initially reported it to her social worker. IPAS determined the provider failed to file an incident report with the Bureau of Quality Improvement Services (BQIS) in a timely manner, failed to suspend staff during an investigation of abuse/neglect, and failed to protect Rebecca from abuse/neglect. ISDH conducted an investigation into the allegation and found that the provider had failed to implement written policies and failed to remove staff during the investigation. IPAS substantiated the allegation as it was clear the provider was aware of the incident and failed to file an incident report according to policy. There was larger systemic change in that the Support Group Living Director was terminated and there was completion of an ISDH survey, with submission of a corrective action plan to insure that, going forward, the provider follows internal policy as well as state and federal regulations. Following IPAS’s review of this incident, the client moved into a Medicaid Waiver program with a new provider.

III. LEGAL

Judicial Review: IPAS has been assisting a client with a second administrative review process of a decision related to the proposed reduction of Medicaid waiver funding/services in a subsequent budget year. The initial budget dispute with Division of Disability and Rehabilitation Services (DDRS) was discontinued at the request of the client’s guardian. The budget for the client’s services in the current year was issued with the same significant cuts as before and was calculated consistent with the budget allowances under the algorithm policies adopted by DDRS. The algorithm policies make no allowance for the individual needs of the applicant/consumer and were insufficient to provide for the client’s needs in this case. IPAS assisted the client’s guardian at an administrative hearing, and the Administrative Law Judge (ALJ) ruled against the client citing the budget to be in compliance with established policy. IPAS assisted the client’s guardian in filing for agency review, and the agency upheld the ALJ’s decision upholding the budget. IPAS has assisted the client’s guardian in filing for judicial review of the ALJ and agency decisions. DDRS has since agreed to increase the client’s budget to a level that is acceptable to the client’s mother/guardian. IPAS believes that there is a good chance that a negotiated settlement covering multiple budget periods can be reached. IPAS is advocating for a settlement that includes an assurance that the budget will not be decreased in future years. A specific settlement agreement has been sent to DDRS and is awaiting approval from the Governor’s Office and Office of Attorney General. The client’s mother, however,

Protection and Advocacy for Individuals with Developmental Disabilities, PADD

Amy Penrod, Program Coordinator

has already begun the budgeting process for the new fiscal year, and it appears as if the higher budget amount will be granted.

Administrative Hearing: The mother of an IPAS client contacted IPAS because the school he was attending was refusing to transport him. The school system claimed that it could not safely do so because of our client's extreme behaviors. Our client's mother does not have a driver's license and is, therefore, unable to transport him. The school offered to have our client's mother pay for a private company to transport him and reimburse her once a quarter. Our client's mother could not afford this option. Additionally, because of the amount of time our client missed from school and the school's inability to deal with his behaviors, our client was not making academic progress.

The school system is required to provide appropriate transportation services. It is IPAS's position that only offering that our client's mother private pay for transportation and be reimbursed quarterly is, in effect, denial of transportation services. Further, IPAS believes that our client is being denied free and appropriate education services.

IPAS tried to resolve these issues through advocacy. Unfortunately, we were unable to do so. Therefore, we assisted our client's mother in filing a request for a Due Process Hearing. At the resolution meeting, the school offered to allow our client to ride the bus. There would be a bus driver, a bus assistant, and a special education assistant. We discussed having several de-escalation techniques in place if our client began to have behaviors.

As for academic issues, the school agreed to increase the length of our client's day and have loftier Individualized Education Plan (IEP) goals. This new plan will be in place while our client attends extended school year services during the summer. The parties will hold a case conference committee meeting at the end of the summer to discuss his progress. The school will also conduct new evaluations at the beginning of the school year. Our client's mother was pleased with the plan, and both parties signed a resolution agreement resolving the case.

Judicial Review: IPAS is representing a client in a Medicaid waiver services appeal hearing. The client lives in a group home with a roommate, and requires no less than 1:1 staffing during the time he is awake and group staffing while he is asleep in order to provide for his health and safety. The client's staffing hours were reduced based on the algorithm funding calculation policy adopted by FSSA for determining staff hours. The policy does not make allowances or exceptions for the individual needs of the consumer. IPAS further contends that FSSA has failed to make a proper individual determination of the client's needs based on his health and safety as required under the Medicaid funding laws and regulations. An administrative hearing was held, following which the Administrative Law Judge (ALJ) issued a decision upholding the State's budget. IPAS believes that the ALJ's decision upholds FSSA's algorithm calculation without taking into account our client's individual health and safety needs. IPAS assisted the client in filing for agency review of the decision, and that review affirmed the decision of the ALJ. IPAS counsel then assisted the client's guardian in filing a petition for judicial review. FSSA has since provided the client with a temporary budget increase that the guardian confirms provides for his needs. FSSA has further offered to make the budget increase permanent through the end of the current budget year, and has offered to provide an ALGO 5 level budget to the client for the following budget year. The client has been receiving the agreed-to budgets throughout the process. After several months FSSA was finally able to receive approvals from the Office of Attorney General and the Governor, both parties have signed the Settlement Agreement, and the case has been dismissed.

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

Administrative Hearing: IPAS represented the family of an infant born with developmental disabilities related to the denial of Medicaid coverage for the infant's hospitalization and care. The Family and Social Services Administration (FSSA) denied Medicaid coverage for the infant's care while she was hospitalized after her birth. Under relevant Medicaid policies, the income of an infant's parents is not "deemed," or taken into account, to determine Medicaid eligibility. The family appealed the denial determination, and a hearing before an Administrative Law Judge (ALJ) took place on June 30, 2014. IPAS represented the family at that hearing. The ALJ in the case eventually ruled that Medicaid denial for the child's hospitalization was improper but that the family was not Medicaid-eligible going forward after hospitalization.

Guardianship Hearing: IPAS opened a case to look into an allegation of abuse and neglect in a nursing home. While going through our standard procedure of determining if the client had a guardian, we discovered that an individual had filed a motion in court for a temporary or emergency guardianship. An IPAS advocate, in talking to the client, determined that he was much smarter and capable of making decisions than people who typically have guardians and that the client did not want to have a guardian. An IPAS staff attorney met with the client and agreed to represent the client in contesting guardianship. A preliminary attorney conference was scheduled, and the IPAS attorney advocated that a Guardian Ad Litem be assigned and that the guardianship hearing be continued until the Guardian Ad Litem issue a report. The Guardian Ad Litem has issued a report finding that the client does not need a guardian. The two sides agreed to a settlement where the client would set up a "Springing POA" of his choosing who would be available to be his POA (Power of Attorney) should his capacity decline. The client chose his uncle to fulfill this role. Opposing counsel filed a Motion to Dismiss once this was done, which was granted.

Complaint Representation: IPAS is in the process of helping a client file a formal complaint with the Indiana Civil Rights Commission ("ICRC"), a state entity that receives complaints of discrimination on, among other things, the basis of disability. The Client and Complainant's son is a child diagnosed with several disabilities, including autism, ADHD, and OCD. The child has found that the use of Silkie chickens, regarded as service animals, greatly help in reducing his problematic behaviors and symptoms of autism. Being separated from the chickens represents a serious problem for managing the child's disability and functioning. Despite this therapeutic use, the family was evicted from their rented home in Hendricks County in August 2014 by their landlord. The Client's family believes that the eviction and further harm was due to discrimination on the basis of their child's disability and use of the chicken service animals after the landlord learned of the existence of the therapy chickens on the property. Any other reason for the eviction is believed to be a pre-text for discrimination. The Client believes that the maintenance and use of the chickens is protected under the Indiana Civil Rights Laws, see Ind. Code §§ 22-9-6-3, -5. The Complaint was filed with the ICRC in September, and IPAS awaits the results of the agency's investigation.

IV. PRIORITIES AND OBJECTIVES

Priority 1: To reduce or eliminate the abuse and neglect of individuals with intellectual disabilities/developmental disabilities.

Objectives:

Protection and Advocacy for Individuals with Developmental Disabilities, PADD

Amy Penrod, Program Coordinator

106 Review 85 allegations of abuse and neglect on behalf of individuals with intellectual disabilities/developmental disabilities to ensure that the allegation is reported to the responsible entities and advocate for necessary action to protect the health, safety and welfare of the individual.

During this quarter, IPAS opened five new service requests within this objective. Thirty-seven service requests had been carried over from the prior quarter, and 13 service requests were completed and closed during this quarter such that 29 will be carried over into the next quarter. Throughout fiscal year 2014, 89 such service requests have been addressed to meet the targeted number of 85 assignments.

Specific outcomes achieved within this objective include:

- IPAS reviewed an allegation of neglect by a Medicaid waiver site staff member. This allegation was reported according to policy and was not substantiated by the provider. IPAS advocated for a thorough review of the allegation by the agency contracted to do so and additionally prompted changes to current provider policies.
- IPAS reviewed an allegation of neglect in which the provider was prompted to conduct a thorough investigation into the allegation.
- IPAS reviewed an allegation of physical abuse within a group home setting. The Indiana State Department of Health (ISDH) reviewed the allegation, noting several violations. IPAS reviewed client-specific records and found the provider had failed to follow their written policies, failed to conduct a thorough investigation into an allegation of abuse, and also failed to protect the client after the allegation. IPAS also reviewed agency policies, substantiating the allegation. The client has since moved into a Medicaid Waiver setting with a new provider.
- IPAS reviewed an allegation of neglect related to medication administration within a group home setting. Following a review by ISDH, the agency was cited for failure to follow the instructions on the medication label. This prompted the agency to conduct monthly training sessions regarding medication administration. IPAS reviewed client-specific records, finding no medication errors. IPAS also reviewed agency policies, but could not substantiate the allegation as the client received appropriate medications and medical treatment.
- IPAS reviewed an allegation of neglect by a Medicaid waiver staff member. IPAS reviewed the agency's policies, identifying a number of deficiencies within those policies; these deficiencies were addressed and eventually changed.
- IPAS reviewed and substantiated an allegation of sexual abuse. IPAS was able to verify the incident was reported to the appropriate entities and that appropriate investigations had been conducted according to the agency policies. The guardian was provided information about her rights as a guardian.

The specific details of one service request closed within this objective are described in the aforementioned "REPRESENTATIVE CASE."

Case review activity determined some cases which had previously been coded as disability based discrimination (206) during the year were more appropriate for coding under this objective.

Specific outcomes achieved within the seven service requests closed in reference to IPAS's advocacy efforts in monitoring the discharge plan/transition process necessary for clients' appropriate discharge from Hickory Creek of Gaston when the facility voluntarily closed include:

Protection and Advocacy for Individuals with Developmental Disabilities, PADD

Amy Penrod, Program Coordinator

- The provider and DRS failed to complete all documentation required by state and federal regulations regarding the discharge of all seven service requests reviewed.
- The transition process was monitored by IPAS for appropriateness. Clients were discharged from Hickory Creek of Gaston and transitioned individually into appropriate settings including group homes, Medicaid Waiver settings and nursing homes.
- With IPAS assistance, each of these seven individuals had their transition and discharge plans reviewed and appropriate new plans, including both risk plans and behavior support plans, were created.

Priority 2: Reduce or eliminate the denial of rights and discrimination due to disability.

Objectives:

201 Review allegations on behalf of five students where the school has proposed or instituted a change of placement through suspension or expulsion.

During this quarter, IPAS opened no new service requests within this objective, while two service requests were completed and closed. Those same two service requests had been carried over from the third quarter, thereby leaving no service requests to be carried over into the next quarter. Throughout the entire year, seven such service requests were completed and closed, to exceed IPAS' goal of reviewing five students' allegations.

Within the two closed service requests, IPAS advocacy efforts resulted in an individualized education plan (IEP) that addressed:

- Provision of appropriate education services within the least restrictive environment
- Extended school year services
- Functional behavioral assessment (FBA) and behavior intervention plan (BIP) establishment
- Information and guidance to enhance the parent's self advocacy skills

"Mandy," age 15, is identified as an Article 7 student under the autism spectrum disorder classification. IPAS was contacted by Mandy's parent after Mandy was suspended and not allowed to return to school for head-butting her teacher, giving her (the teacher) a concussion. It was IPAS' intention to assess Mandy's educational services to determine if she was receiving a free appropriate public education with an appropriate IEP. IPAS reviewed all available records and attended a case conference to find that Mandy's behavior plan did address her behaviors. It was agreed between the school and Mandy's mother that continuing homebound services – instead of returning her to her initial placement – was most appropriate. IPAS agreed, concluding that Mandy's return to the classroom at the time would pose a threat to others. With this, Mandy's receipt of homebound services is not in violation of the requirement for services in the least restrictive environment. An overall effective communication was re-established between the parent/child and school, and Mandy's education plan was amended to include additional services through the summer and a date for transition planning for when she does return to public school.

203 Review 25 allegations of discrimination under Title II or III of the Americans with Disabilities Act, Fair Housing Act, or other disability discrimination law.

Protection and Advocacy for Individuals with Developmental Disabilities, PADD

Amy Penrod, Program Coordinator

During this quarter, IPAS opened two new service requests within this objective. One service request was completed and closed, but since four cases had been carried over from the previous quarter, five service requests will be carried over into the next quarter. IPAS failed to meet the target number of 25 service requests within this objective during the 2014 fiscal year.

“Kay” is the parent of a 12-year-old child with cerebral palsy. Her son, “Justin,” uses a wheelchair. Kay contacted IPAS to complain that the accessible parking in the “East Lot” of her son’s school was blocked by school buses in the morning and afternoon when she dropped off and picked up her son. It is the school’s practice to prohibit other vehicle traffic in these areas during loading and unloading periods for student safety. Kay claimed that this creates a hardship, as she must drop off her son at an area that is much farther away. IPAS opened a case to determine if a violation of the Americans with Disabilities Act existed. Fact finding revealed that during bus loading and unloading periods, the entire East parking lot is closed--not just the accessible parking – because of student safety. The school provides for an alternative location with accessible parking in the West parking lot. This is where parents are to pick up or drop off students during these periods. IPAS researched state, district, and school policies, but found no policy governing the restriction of vehicles to areas where buses load and unload and finally concluded Justin’s rights were not violated by such a policy. As a result of IPAS’s involvement, though, Justin’s school agreed to inform all parents via the school newsletter and other communication resources that the East parking lot is closed during the loading and unloading periods.

204 Represent ten individuals in their appeal of reduced Medicaid waiver services when the alleged reduction in services will have a serious and negative impact on the health and safety of the individual, or when the reduction of services places the individual at risk of being placed in a more restrictive setting.

During this quarter, IPAS did not open any new service requests within this objective. Six service requests had been carried over from the prior quarter, three of which were completed and closed, leaving three service requests to be carried over into the next quarter. These three service requests were the only service requests completed and closed in the 2014 fiscal year within this objective; IPAS did not meet the target number of 10 such service requests.

“Jared” contacted IPAS on behalf of “Phillip,” age 64. Jared is Phillip’s guardian. Phillip receives funding for services and healthcare from the CIH Medicaid waiver. It was Jared’s belief that Phillip’s budget would not provide funding for adequate staffing to ensure Phillip’s safety and welfare. IPAS Legal initially requested an agency review, which was denied. The next step, therefore, was to appeal the case at the judicial review stage. IPAS Legal engaged in negotiations with legal counsel from the Family and Social Services Administration to ensure that Phillip had adequate funding to meet his needs throughout the process of the appeal. It was eventually determined that Phillip’s budget would be increased to provide for adequate staffing to meet his needs. Thanks to IPAS advocacy, Phillip’s budget increase applied not only to the current fiscal year, but also to the next.

205 Represent three individuals in their appeal of denied eligibility for Medicaid waiver.

During this quarter, IPAS opened one service request within this objective. Work on that service request was not completed. It was not closed and, therefore, will be carried over into the next quarter. During this quarter, no service requests were closed within this objective, though throughout fiscal

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

year 2014, three such service requests have been addressed, meeting the targeted number of assignments.

206 Review three allegations of disability based discrimination that may have systemic implications.

During the quarter, IPAS did not open or close any service requests within this objective. Case review activity did determine cases that had previously been coded as 206 during the year were more appropriate for coding under the program's abuse and neglect (106) objective. With the decision made to re-code such cases, the agency's intention to, during this priority year, review three allegations of disability-based discrimination that may have systemic implications was not met.

See "MULTIPLE PROGRAM PROJECTS" section on Sheltered Workshop Monitoring and Subminimum Wage.

208 Review five allegations of unregulated or under regulated use of restraint and/or seclusion by a school and advocate for adoption of policies that promote and protect the health and safety of students.

During this quarter, IPAS neither opened nor closed any service requests under this objective. No service requests had been carried over from the prior quarter, and there are no service requests to be carried over into the next fiscal year. Throughout fiscal year 2014, no service requests were opened under this objective. While one service request had been carried over from the prior year and was closed, IPAS's goal of reviewing five allegations of unregulated or under-regulated use of restraint went unmet.

209 Review allegations on behalf of 15 students whose school is not providing appropriate educational services.

During this quarter, IPAS opened 15 new service requests within this objective. Twenty-three such service requests had been carried over from the prior quarter, and 23 were completed and closed during this quarter so that 15 will be carried over into the next. Throughout fiscal year 2014, 70 such service requests were completed and closed, by far exceeding IPAS' goal of reviewing 15 students' allegations.

Outcomes within those closed service requests include development and implementation of revised education plans based upon current educational evaluations that addressed:

- Addition of assistive technology and related services to an IEP
- Attendance in a traditional school setting with needed accommodations and supports
- Evaluations conducted through the local education agency (LEA) and /or independent educational evaluations
- Extended school year services
- Functional behavioral assessments (FBA) and behavior intervention plans (BIP)
- Placement within private educational settings
- Provision of information and guidance to enhance self advocacy skills
- Technical assistance regarding both 504 and Article 7
- Training of staff regarding specific disability issues

Protection and Advocacy for Individuals with Developmental Disabilities, PADD

Amy Penrod, Program Coordinator

“Kaden,” age 11, has an IEP under Article 7, which identifies him with a mobility impairment and autism spectrum disorder (ASD). His parent contacted IPAS alleging that the LEA was not following the terms and services provided for and contained in his current IEP. Kaden’s parent specifically alleged that the LEA was not sufficiently supervising Kaden; that he was not being taken out of his wheelchair for sufficient amounts of time throughout the day; was not having his muscles stretched, which is necessary due to his mobility condition; that LEA staff were failing to properly position him in the wheelchair; and that LEA staff had used duct tape on his lap belt release to prevent Kaden from unbuckling the belt. This information was substantiated by IPAS, and IPAS then assisted the child and family through case conferencing to address the school’s deficiencies and to obtain assurances that his rights would no longer be violated by the school.

Kaden’s IEP was reviewed, amended, and updated to provide that Kaden will receive more supervision, specifically during transition and quiet times; that the LEA will discontinue use of a weighted vest; that LEA staff will be retrained on and provide 1:1 muscle stimulation; that duct tape will never again be used in relation to the client or his wheelchair; that LEA staff will move Kaden from the chair to the floor for appropriate parts of the day and provide a soft blanket for naps; and that LEA staff will be retrained on proper positioning of Kaden and the use of the new harness system just recently implemented on his chair. Based on IPAS efforts, Kaden’s IEP has been amended to provide significant additional terms that will benefit his educational, health, and general welfare interests. His parents were also provided with additional information as to Kaden’s rights and safeguards under Article 7.

210 Review five cases involving alleged rights violations and the use of the internal complaint process of the provider, in situations not involving abuse or neglect.

During this quarter, IPAS opened four new service requests within this objective. Four service requests were completed and closed, while four had been carried over from the third quarter. This leaves four service requests to be carried over into the next quarter. During the 2014 fiscal year, seven such service requests were completed and closed to exceed the goal of reviewing five cases involving a provider’s internal complaint process.

Outcomes achieved within the closed service requests include:

- Development of a “Medication Consent Form” to ensure notification to guardians and/or receipt of guardian approval prior to medication changes.
- Amendments made to provider’s “Policy of Consent” related to staff notifying and seeking approval of resident’s guardians prior to implementing any medication changes.
- Appropriate case management services for a client.
- Assurance for a client that confidential information had not been released without his consent.

“Betty,” age 58, had always lived at home with her guardian. The aging guardian made the difficult decision that it was time for Betty to transition somewhere else for her care. After much deliberation, Betty’s guardian chose a specific provider. Shortly after Betty’s transition to living with the provider, her guardian contacted IPAS with concerns of what she believed to be a decline in Betty’s overall health. The guardian reported she noticed a change in Betty’s personality and behaviors. In addition, the guardian reported Betty had started experiencing seizures of which she had no prior history.

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

IPAS's fact finding determined the provider had stopped Betty's medication of which she had been prescribed and taking for thirty years with no reported problems. Betty's guardian was not consulted or informed of the physician's decision prior to the medication change; this is a violation of Betty's rights. The prior medication was replaced with a different medication, which is believed to have resulted in Betty's declining health. The newly prescribed medication was discontinued with ongoing discussions between the guardian and the physician as to the appropriate medication for Betty.

IPAS informed Betty's guardian, provider and physician of the rights violation. The provider and physician reported they were not aware of the lack of communication with the guardian and apologized for the error. IPAS then requested the Provider change its "Policy of Consent" to appropriately address these types of issues and/or violations. An additional IPAS request was for the development of a "Medication Consent Form" that must be completed prior to medication changes to prevent future rights violations.

IPAS's last contact with the guardian determined Betty's medications are still being adjusted but that Betty's overall health appeared to be improving.

Priority 3: Increase awareness and effective self-advocacy by providing education and training about disability rights and the exercise of these rights.

Objectives:

301 Provide education and training about disability rights, self-advocacy skills and IPAS to individuals with intellectual disabilities/developmental disabilities, parents, guardians, advocates, and/or service program providers.

During the fourth quarter, IPAS provided two education/trainings and four public information activity events under this objective reaching approximately 2,741 individuals.

Additionally, and at the request of Councilman Leroy Robinson, IPAS provided written testimony in reference to the City of Indianapolis's Proposal 215. See "MULTIPLE PROGRAM PROJECTS" section on Source of Income Testimony.

Throughout fiscal year 2014, IPAS provided nine education/training events and 19 public information activity events, reaching approximately 5,222 individuals.

302 Support education and training efforts of self advocacy organizations to increase awareness of disability rights.

Partnership efforts with various disability related agencies in Indiana continues.

Self Advocates of Indiana (SAI): The Self Advocates of Indiana (SAI) newsletter was distributed to 200 plus individuals and was posted on-line. Seven-hundred-sixty self advocates attended trainings or meetings during the fourth quarter and IPAS attended the SAI 2014 Picnic event and provided information to over 600 attendees regarding voting.

The Arc of Indiana: The summer and fall 2014 issues of *The Arc News in Indiana* were distributed

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

during the fourth quarter. Distribution of the summer issue was 22,052. Distribution of the fall issue was 22,106.

Seven persons were referred to IPAS by the Arc of Indiana and Self Advocates of Indiana this quarter. Two cases involved school issues, two cases involved police harassment issues, one involved loss of benefits, one contractual/financial exploitation issue, and one contractual and accessibility issue.

The Legal Network sign up form continues to be available via The Arc of Indiana and The Arc Master Trust websites. It is promoted through The Arc of Indiana E-Newsletter and on The Arc of Indiana and SAI's Facebook pages. Year to date, 57 individuals have signed up for The Legal Network.

The Autism Society of Indiana (ASI): During this quarter, the District 4 Ally supported 26 new families and the Lead Ally connected with 268 families about various issues within the statewide "ally" program, a peer-to-peer support program helping those who are affected by autism or a dual diagnosis of autism and mental illness.

ASI has direct relationships with the following providers and support organizations:

- White County Social Services
- Boone, Hendricks, Clinton County JSC
- Hamilton, Boone, Madison School Coop
- Wayne Township Special Services
- Hamilton and Hendricks County Systems of Care
- IEP Resource Center
- Indiana University School of Medicine
- Special Needs Aquatic and Activity Programs
- Arc of Tippecanoe
- IAEEYC -Indiana Association for the Education of Young Children
- NAMI Indiana
- INAPSE
- FUSE
- HABA -Hoosier Association of Behavior Analysis
- IN-ABC - Indiana Association of Behavior Consultants

ASI participated in the following district committees and task forces to understand the needs of the state and provide input to meet those needs:

- Carroll County Social Services
- System of Care (SOC) – Tippecanoe County
- SOC – Fountain/Warren County
- SOC – Clinton County
- SOC- White County
- HANDS in Autism Local Cadre
- Systems of Care Advisory Committee
- Systems of Care local county groups
- First Steps LPCC -Local Planning Community Council

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

- Transition Councils
- Disability Action Work Group (DAWG)
- Westside Secondary Transition Council
- Westside Special Needs

ASI provided training to families to increase their ability to meet the client's needs:

- District 4 training included
- IU Health (12 people)
- HANDS workshop/family support (12 people)
- Support group (18 people)
- LEAD Ally training included:
- Focus group at Riley Hospital (11 people)
- Child and Adult Resource Services (CARS)

ASI collected data and provided follow-up with families while ASI outreach continues to notify the public of the HELPS App. The HELPS Application was downloaded 256 times on Apple and 42 times on Android.

Institute for Disability & Community (IIDC) Family Council: This group held no meetings during the fourth quarter. During fiscal year 2014, IPAS attended both meetings of the IIDC Family council. IPAS used the meeting to determine in what ways it is appropriate to provide assistance and support to the activities and initiatives.

305 Strengthen policies and practices affecting the State's response to disability rights issues affecting individuals with intellectual disabilities/developmental disabilities through attending at least 50% of the meetings of select committees, groups and task forces.

During the 2014 fiscal year, IPAS staff participated in 89% of the selected committees, groups, and task forces deemed to have an effect on disability rights issues. This by far surpasses the agency-set goal of attending 50% of these meetings. Also included within this objective were monitoring activities at facilities providing care and treatment of individuals with intellectual and other developmental disabilities.

Indiana Commission on Autism: In June 2014, IPAS was notified that the Indiana Commission on Autism had dissolved. Going forward, the various topics of concern would be included in other study committees, of which IPAS is currently monitoring for intermittent participation.

IIACC Public Policy Meeting: IPAS contacted the Director of the Division of Disability, Aging & Rehabilitative Services to inquire as to why there has not been an update regarding the new Interagency Autism Coordinating Council (IIACC) contract or when meetings would resume. Naomi Swiezy, Director of Hands in Autism, replied to IPAS that the contract was officially awarded to them in August and they are currently determining the structure of the program and meetings. IPAS will receive a notification of the next meeting in mid October.

IPAS did attend the one Public Policy meeting held during the 2014 fiscal year.

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

BQIS Mortality Review Committee: IPAS continues to serve on the BQIS Mortality Review Committee (MRC) whose purpose is to review the deaths of those receiving waiver services or who had resided in group homes or other similar facilities at the time of their death. The goal of the group is to look for ways to reduce preventable deaths through policy change, training recommendations and provider monitoring. IPAS attended the two meetings held by the MRC during this quarter; those being the only two meetings held since IPAS was invited to participate.

During the meetings, 13 “focus cases” were discussed. The meeting resulted in the following discussion and action items: (1) creating better documentation procedures for tracking changes in behavior over time; (2) reinforcing training efforts for CPR administration; (3) tracking trends in incident reporting; (4) reviewing risk plan procedures and regulations; and (5) assessing current training and monitoring protocols for direct service providers.

2014 Governor’s Planning Council: IPAS attended the only meeting of the Indiana Governor’s Council for People with Disabilities Board (GCPD) held during the quarter. The Board meeting was dominated by updates and progress reports concerning the first three quarters of the 2014 fiscal year. IPAS and GCPD continue to collaborate on efforts to support the Self Advocates of Indiana, Annual Critical Issues Survey, and the Livable Community Initiatives. Indiana Protection and Advocacy Services, by virtue of federal statute, automatically serve as a member of the GCPD’s board.

The GCPD adopted a policy allowing for electronic participation of members; IPAS had provided copies of its policy regarding the same following the June meeting.

The GCPD completed planning regarding the town hall meeting that had been incorporated into the year’s annual conference. IPAS will use the town hall meetings to gather information to assist in the development of its three-year Priorities and Objectives, with the first occurring on December 9.

IPAS staff attended all four meetings of the Indiana Governor’s Council for People with Disabilities Board (GCPD), as well participated in the FFY 2014 annual conference.

Interim Study Committee on Public Health, Behavioral Health, and Human Services: See “MULTIPLE PROGRAM PROJECTS.”

Elder Justice Convening: See “MULTIPLE PROGRAM PROJECTS.”

Indiana Adult Guardianship State Taskforce: See “MULTIPLE PROGRAM PROJECTS.”

Indiana Taskforce on Disability and Health: See “MULTIPLE PROGRAM PROJECTS.”

Mental Health America of Greater Indianapolis Adult Guardianship Committee (MHAGI): See “MULTIPLE PROGRAM PROJECTS.”

Arcadia Developmental Center ICF/IID Human Rights Committee and Monitoring Activities: Arcadia Developmental Center ceased operations in November 2013.

Protection and Advocacy for Individuals with Developmental Disabilities, PADD

Amy Penrod, Program Coordinator

Hickory Creek ICF/IID Human Rights Committee and Monitoring Activities: Hickory Creek ceased operations in April 2014.

Logansport State Hospital (LSH) Human Rights Committee Meeting: See “MULTIPLE PROGRAM PROJECTS.”

North Willow ICF/IID Human Rights Committee & Monitoring: IPAS attended each of the three HRC meetings held at North Willow during this quarter. In this quarter, 15 behavior support plans were reviewed for accuracy and thoroughness; this ensured the patient’s rights were kept intact. Also reviewed were seven psychotropic treatment plans and 26 pre-medication requests. Pre-medications are requested for dental and other medical appointments in which the patient has high anxiety and will likely be uncooperative or combative.

Seventeen restrictions were reviewed for accuracy and thoroughness to ensure the patient’s rights were kept intact. Restrictive tactics and items include, but are not limited to, one-to-one staffing procedures, pelvic stabilizers (wheelchair seatbelts) for individuals with seizure disorders, electric razors for individuals unable to maintain a razor independently, closets for individuals unable to maintain and preserve their own clothing, and, for the second and third floor, door alarms which were put into place to prevent individuals from eloping. Two restrictions were tabled by the committee to determine if the restrictions were still necessary. One restriction was for a lap tray; the other, a bed/chair alarm. The committee will be provided updated information regarding these restrictions within the next quarter.

IPAS visited North Willow three times this quarter for the purpose of monitoring the facility. IPAS continues to note that still more individuals are moving into the community. As individuals are moving out of North Willow into community settings, the HRC committee has received new resident members. These new members will rotate their attendance and participate in discussions about human rights.

Marion ResCare Monitoring Activities: IPAS conducted four monitoring visits during this quarter at the ResCare facility in Marion. Monitoring activities include speaking with residents and staff as well as watching for signs of abuse/neglect and inappropriate interaction between staff and residents. The facility is currently at census with 30 individuals, with all three units now open.

Many changes occurred at the facility during this quarter, including the termination of the Executive Director, Program Manager and Quality Assurance Manager. There are cosmetic changes also occurring in the facility. Those changes include new flooring and paint with each resident permitted to choose their room color from a pallet of approved colors. Several complaint surveys have been conducted by the Indiana State Department of Health, many of which were substantiated for lack of active treatment.

During fiscal year 2014, IPAS conducted twenty-four monitoring visits at the ResCare facility in Marion.

Especially Kidz Monitoring Activities: IPAS visited Especially Kidz (EK) three times during this quarter. In reference to this monitoring, IPAS reviewed a memo from CMS to the state survey agency director’s clarification of nursing home reporting requirements, dated December 16, 2014. This memo can be found on the ISDH long-term care website and clarifies such facilities’ duty to report

**Protection and Advocacy for Individuals with Developmental
Disabilities, PADD**

Amy Penrod, Program Coordinator

abuse/neglect. Included are all reporting obligations under state law for both children and adults. IPAS also reviewed the new IC 12-15-5 Chapter 5 entitled, "Services Provided" that came about because of the recently passed Senate Bill 397.

Sheltered Workshops Monitoring Activities: See "MULTIPLE PROGRAM PROJECTS."

Priority 4: Provide timely and accurate information about disability rights and technical assistance concerning the exercise of these rights.

Objectives:

401 Respond to requests for information and referral and technical assistance to individuals with intellectual disabilities/developmental disabilities, their families, and professionals about disability rights and provide information and technical assistance concerning the exercise of these rights.

IPAS provided information and referral services to 131 individuals during the fourth quarter of the 2014 fiscal year, bringing the grand total of individuals provided with information and referral services in the year to 476.

Of the 8,621 visitors to the IPAS website, 15 indicated they were directed there by members of ARC of Indiana and four, by the administration at the Autism Society of Indiana.

PADD Report End

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

I. STATISTICS

Informational Inquiries	213
Cases Carried over from Previous Quarter	78
New Cases Opened	21
Total Clients Served	99
Total Number of Individuals Served	312
Cases Closed at End of Quarter	23
Cases on Hand at End of Quarter	76

II. REPRESENTATIVE CASE

“Alvin” is a seventeen-year-old who had been residing at an inpatient facility for several months. Alvin’s father contacted IPAS regarding injuries he reported his son sustained during a restraint by facility staff in response to his son’s behaviors. However, after Alvin’s father made initial contact with IPAS, he did not respond to IPAS’s request for additional information and did not return the paperwork that gives IPAS permission to review the minor child’s records. Due to the father’s initial report of alleged abuse and neglect, however, IPAS determined there was enough information provided that allowed IPAS access authority to review the allegation.

During IPAS’s fact-finding process, it was determined that the Department of Child Services and the Indiana State Police investigated the allegation as reported to IPAS. Neither entity substantiated abuse or neglect due to a lack of evidence, but did conclude that restraint was unwarranted. Based on these findings the facility took disciplinary action against the staff involved in the incident.

Further IPAS review determined Alvin had been sent to the hospital for an evaluation of his bruises and injuries sustained on the day of the reported incident. However, when IPAS reviewed the facility’s documentation relevant to the alleged incident, there was no mention of Alvin’s bruises or injury of any kind. IPAS then reviewed the facility’s Restraint and Seclusion Policy and determined it did not require health and/or body checks for a restrained individual, and did not require documentation regarding any bruising or other injuries that may show up after a restraint. IPAS also determined the facility did not have an investigation policy regarding restraints or incidents and allegations of abuse and neglect.

The completed IPAS assessment did substantiate that Alvin had been abused due to an inappropriate restraint. IPAS concluded the injuries were due in part to being restrained twice on the same day. One restraint resulted from the facility’s reaction to Alvin throwing a shoe at a staff person. Under federal regulations, restraints are only permitted in emergency safety situations, defined as, “unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.” Throwing a shoe is not an emergency situation. Further, federal regulations provide that restraint “must not result in harm or injury to the resident,” and Alvin was harmed as a result of the restraint. As stated, Alvin was sent to the hospital for an evaluation of his bruises and injuries.

IPAS wrote the facility and recommended it make corrections to its policies. IPAS noted that failures in oversight and reporting create an environment that makes it difficult to be proactive against incidents and allegations of abuse and neglect. IPAS recommended that the facility develop a policy

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

and procedure to investigate and address incidents or allegations of abuse and neglect, incorporate health and/or body checks into its restraint and seclusion procedure, and develop a procedure for documenting any and all injuries. IPAS also recommended that the facility develop a policy and procedure to investigate and address incidents or allegations of abuse and neglect.

III. LEGAL

The litigation against the Indiana Department of Correction (IDOC) has continued into the remedy phase since the “Order” issued by Judge Tanya Walton-Pratt on December 31, 2012, in which she found that IDOC had violated the Constitutional rights of inmates with serious mental illness through its deliberate indifference to their need for care and continued harm caused by their segregation.

During the quarter, Plaintiff’s counsel reviewed chart information for 11 inmates in the New Castle (NC) Psychiatric unit and interviewed six inmates at NC. Four inmates whose records had been reviewed refused interviews and one had been released from IDOC. Four of the inmates interviewed had achieved Phase III status, meaning their behavior had improved, that they had accomplished certain benchmarks in the system, and that they had been restored to most, if not all of their privileges and out-of-cell time within the mental health unit. The inmates all stated that they are now receiving the opportunity to participate in two to three group therapy sessions per day, Monday through Friday; that they were having individual therapy sessions as much as twice a month; that they were out of their cells for much of the day, with much of the time spent in the day room with other inmates; that they were taking some of their meals in the day room as well; that they were afforded recreation twice a day for one hour per session; were not in shackles when out of their cells; and generally afforded the usual daily showers, weekly library privileges and other routine privileges. Overall, the situation for Phase III inmates at New Castle has improved substantially and is in line with the changes being advocated for in the litigation. Counsel noted, both from record review and lack of interview contact, that Phase I and II inmates are more withdrawn and have far less out-of-cell time due in substantial part to inmate refusal of therapy and other opportunities, as well as other behavioral and security issues.

A meeting was held with Defendant’s counsel after the New Castle interviews and record reviews, during which records and inmate situations, both individually and generally, were discussed. The resulting information and discussions generally showed that while IDOC is attempting to offer additional therapy, counseling, and other services, many Phase I and II inmates are refusing. New Castle mental health staff has and is attempting several counseling and other strategies to gain inmate involvement in the programs to leave their cells more frequently. Plaintiff’s counsel noted from the records and information that a substantial number of inmates have been moving up through the NC mental health classification system to less restrictive custodial situations. Further, significant numbers of inmates have either been returned to general population, transferred to the Pendleton Mental Health Unit (IRT), and the Wabash Valley Correctional Facility Special Needs Unit (SNU), all of which represent less restrictive environments indicative of improved mental health status of those inmates. Overall, while the system is not being embraced by all inmates, it is generally attempting to correct the concerns identified at trial and in the Judge’s Order. The parties will be scheduling meetings in the near future to discuss a final settlement and closure of the case.

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

IV. FEDERAL REQUIRED DISCLOSURES

There was one grievance filed during the quarter. It concerned an individual currently housed in an IDOC facility. Unfortunately, due to IPAS's current class action litigation concerning the psychiatric treatment of inmates within the IDOC, the client's request that IPAS provide direct services was denied. The decision to deny services was based in part due to trial rules governing the discovery of evidence; IPAS cannot take on new cases and continue adding individuals to the class of persons represented. This complaint was subsequently appealed to the Chairperson of the IPAS Commission just prior to the quarter's conclusion.

The number of grievances filed by PAIMI-eligible clients, including representatives or family-members of such individuals receiving services during this fiscal year: 0.

The number of grievances filed by prospective PAIMI-eligible clients (those who were not served due to limited PAIMI Program resources or because of non-priority issues during this fiscal year): 4.

Total number of grievances appealed to Chairperson of the IPAS Commission: 1.

V. MEETING STATISTICS OF MEMBERSHIP ATTENDANCE

Commission	Last meeting held September 27, 2014	83.3% (10 of 12)	For the FFY , five meetings held	89.4%
MIAC	Last meeting held August 4, 2014	75 % (6 of 8)	For the FFY, three meetings held	87.7%

VI. PRIORITIES AND OBJECTIVES

Priority1: Reduce or eliminate the abuse and neglect of individuals with mental illness in community-based or long-term care facilities.

Objectives:

101 Review allegations of abuse or neglect of individuals residing in a facility operated by Indiana Department of Mental Health and Addiction and advocate that necessary actions are taken to protect the health, safety, and welfare of the individual.

For the quarter, IPAS began with 11 open cases and opened seven additional service requests. Four service requests were completed and closed, leaving 14 cases carried over into the next quarter. For the year, 21 cases have been closed, thus achieving 84% of the target for the year.

Additionally, IPAS continued to visit and monitor each state hospital for incidents of patient abuse and neglect and rights violations. IPAS encourages the residents not only to contact IPAS but to review concerns with their treatment team and if an issue is not resolved, to file an internal complaint.

In one case closed during the quarter, a state hospital client alleged a staff member had made a sexually inappropriate comment to him. The client reported having submitted an internal grievance regarding the comment. Fact finding showed that the incident involved a staff member teasing the

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

client. The client filed a grievance using the hospital's complaint procedure. The complaint was processed per hospital and DMHA policy. The behavior was found to be inappropriate; however, there was not sufficient evidence to prove any sexual remark was made. Proper procedure was followed during the investigation of this incident and the staff member was disciplined and retrained regarding appropriate interactions. The client was ultimately moved to another unit where that staff member does not work.

102 Review allegations of abuse or neglect of individuals residing in Community Mental Health Centers and advocate that necessary actions are taken to protect the health, safety, and welfare of the individual.

IPAS began the quarter with five open cases and opened one additional service request. One service request was completed and closed, leaving five cases carried over into the next quarter. For the year, five cases have been closed, thus achieving 33% of the target for the year.

IPAS reviewed an allegation of abuse by a Comprehensive Mental Health Center (CMHC) group home staff member. This allegation was initially reported as unprofessional behavior by staff, and the staff member was issued disciplinary action. The allegation was not formally investigated according to policy. Within this service request, IPAS advocated for changes to current policies. The client was provided with information about the provider's obligations regarding abuse/neglect and investigations, and the right to file a complaint.

In another case, "Raygen," a 42-year-old woman receiving CMHC group home services, contacted IPAS with a complaint of verbal abuse by her staff. The CMHC did not conduct a formal investigation into this allegation but did find that the staff person acted unprofessionally and issued disciplinary action. IPAS determined the staff member failed to follow protocol set within the provider's policies regarding reporting and investigating allegations of abuse. IPAS also determined a number of the provider's policies were inadequate. IPAS notified the provider of the failings. The provider made changes to some policies, but had to have changes approved through the Board of Directors prior to initiation. IPAS prompted systemic change with the provider agency's policy updates.

103 Review allegations of abuse or neglect that resulted in the death of an individual who resided in a mental health treatment facility.

The fourth quarter began with two cases from the prior quarter. During this quarter, one new request for assistance was opened, and one service request was closed. Two cases were left to be carried over into the next year.

104 Review allegations of inappropriate use of restraint or seclusion and advocate that necessary actions are taken to protect the health, safety, and welfare of the individual.

IPAS began the quarter with nine cases and opened two additional service requests this quarter. Three cases were closed, leaving eight cases carried over into the next quarter.

The target number of cases for 2014 is five reviews. The total number of cases closed to date is 15. Thus the objective has been met for the year.

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

Outcomes achieved for these closed service requests include:

- Allegations of abuse were appropriately reviewed.
- Recommendations for a facility to develop a policy and procedure to investigate and address incidents or allegations of abuse and neglect.
- Recommended changes for a facility's Restraint and Seclusion Policy to incorporate health/body checks for patients who are restrained.
- Recommendations to a facility to develop a procedure for documenting any and all injuries.

106 Continue to represent prisoners with serious mental illness in class action lawsuit to diminish the use of segregation.

See the "LEGAL" section on the Department of Correction lawsuit.

108 Review allegations of abuse or neglect of individuals residing in facilities designated as a psychiatric residential treatment facility (PRTF)

IPAS began the quarter with no open cases and opened two additional service requests. No service requests were completed and closed, leaving two cases being carried into the next quarter. For the year, 60% of the target had been met.

Priority 2: To reduce or eliminate the denial of rights and discrimination due to a mental illness diagnosis.

Objectives:

202 Review allegations of rights violations and discrimination under the Fair Housing Act, ADA (recreational opportunities only) or failure of a provider to obtain informed consent prior to treatment.

For the quarter, IPAS began with three open cases, but opened no new service requests. There were no service requests completed during the quarter, leaving three cases for the start of the next quarter. For the year, the target of five completed cases has been exceeded.

204 Review allegations of treatment rights violations of individuals with mental illness.

IPAS began the quarter with two cases, and no additional service requests were opened this quarter. Two cases were completed and closed this quarter leaving zero cases to be carried over into the next quarter.

The target number of cases for 2014 is five reviews. The total number of cases closed to date is 11. Thus, the objective has been met for the year.

Outcomes achieved for these closed service requests include:

- An allegation of a rights violation was appropriately reviewed
- Review of a facility's policy, "Rights of Persons Served"
- Review of a facility's policy, "Response to Complaints"

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

In one case, “Charles,” age 58, contacted IPAS regarding his dissatisfaction with the services he was receiving from his provider. Charles reported that he needed assistance in getting new eye glasses and wanted to change his psychiatrist. He also stated that he did not feel safe where he lives due to people knocking on his door asking for food, money, or a place to stay. Charles wanted to have more input in who his doctors are, what medication he takes, and how to establish his personal goals. Charles believed working with a different team, preferably the “ACT Team,” would provide him the services he needed to address his concerns.

During the IPAS assessment process, Charles’s concerns were expressed to his case manager. Soon after, Charles was assigned the requested “ACT Team,” which then provided him the more intensive services. Shortly after the team change, Charles reported he had already received assistance with getting a different psychiatrist.

205 Review allegations on behalf of individuals residing in state operated facilities when there is proposed or instituted restriction of a conditional right.

IPAS began the quarter with ten open cases and opened eight additional service requests during the quarter. Six cases were completed and closed during the quarter, leaving twelve cases for the start of the next quarter.

The target number of cases for review is 25. The total number of closed cases to date is 25. Thus, the targeted number of reviews has been met for the year.

Outcomes achieved for these closed service requests include:

- Advocacy for a client’s right to use personal property within a state operated facility
- Verification that patients of a state hospital are afforded the right to maintain reasonable contact and/or communication with persons outside the facility.
- Ensuring patients of a state hospital are given access to Grievance Forms
- Verifying that a state hospital followed the Patient Complaint Policy.

“Frank” is a 53-year-old patient at a state operated facility. Frank’s Treatment Team approved his request to have a docking station which would allow him to play music and charge his iPod in his room. Frank purchased a docking station, and his Treatment Team approved the item for use. As required by hospital policy, Frank engraved his name on the docking station, and it was then placed in his room for use.

Frank’s first attempt to use the docking station revealed that an adapter would be required to connect the iPod to the docking station. The adapter was purchased, and it, too, was approved for use by Frank’s Treatment Team. The hospitals’ Psychiatric Safety Review Board, however, did not approve the adapter, stating it was a swallowing hazard to patients due to its size and prohibited its use.

Frank filed a grievance regarding the Board’s decision, stating that both the docking station and the adapter had been approved by his Treatment Team, but then he was denied use of them. IPAS’s intervention and advocacy resulted in the hospital purchasing Frank an iPod that could be used with the docking station independent of the adapter, thus permitting him to use the docking station for its intended use.

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

209 Review allegations on behalf of students where the school is not providing appropriate educational services.

For the quarter, IPAS began with six service requests, and no additional service requests were opened. Four service requests were completed and closed, leaving two cases for the start of the next quarter. For the year, the target of ten completed cases has been exceeded.

In one case, IPAS's efforts resulted in the client being removed from an alternative program and placed back in special education with all necessary, related services.

In a second case, the client received benefit as a result of IPAS advocacy through assistance with requesting and having completed an educational evaluation. IPAS ultimately found that the client qualified for educational services under Article 7.

In another case, after a thorough fact finding, IPAS was unable to find a rights violation in terms of the child's expulsion and services provided after the expulsion.

In the fourth closed case the guardian chose to self-advocate and withdrew authorization for IPAS to act on the guardian's behalf.

Priority 3: Increase awareness and effective self-advocacy by working with and supporting advocacy groups and organizations.

Objectives:

301 Participate on the Resident/Human Rights Committee meetings of the facilities operated by the Indiana Department of Mental Health and Addiction.

Evansville State Hospital (ESH): During the fourth quarter, ESH held three HRC meetings on 07/14/14, 08/11/14, and 09/15/14. IPAS was in attendance at all three meetings. Thirty grievances were reviewed, with 12 being reviewed during the 07/14/14 meeting, nine during the 08/11/14 meeting, and nine during the 09/15/14 meeting. The HRC also reviewed the seclusion/restraint report during each meeting.

IPAS, along with other HRC members, advocated that a resident's privileges cannot be restricted due to the resident's refusal to take birth control, which was being recommended by her unit physician and was reported in the grievance investigation report. ESH's Medical Director agreed to notify the unit physician of this and review the resident's chart and the physician's order for birth control.

Evansville Psychiatric Children's Center (EPCC): During the fourth quarter, two HRC meetings were held at EPCC on 07/30/14 and 09/24/14. IPAS was in attendance at both meetings. Eight grievances were reviewed by the HRC. IPAS participated in the review of the eight grievances and found no basis on which to object to the facility's response.

LaRue Carter Memorial Hospital (LCH): IPAS attended four of the five Human Rights Committee meetings held at LCH during this quarter. This quarter's meetings focused on development of one new policy and revisions of an existing policy. The Larue Carter Hospital's

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

(LCH) “Consumer Grievance Policy H-2200.3.1.” is in the final states of revision and will soon be presented to the board for approval. IPAS has advised on various aspects of the revisions. Due to many LCH patients’ use of the grievance forms to ask questions of their treatment team, a new policy and form is in development. This new process will keep patients’ grievances separate from patient questions, enabling both procedures to be more efficient. This quarter also resulted in a different procedure for quarterly distribution of “Patients Rights Information.” The Rights and Ethics Chairperson will now be responsible for the distribution of materials and maintaining records.

Logansport State Hospital (LSH) Human Rights Committee Meeting: See “MULTIPLE PROGRAM PROJECTS.”

Madison State Hospital (MSH): During this quarter, IPAS attended two of the three HRC meetings. IPAS reviewed changes to the personal belongings policy and found no issues. This was slightly revised during a review of this policy, along with the handbooks and rights and responsibilities that are given to patients and families at admission, to assure consistency among all documents. Minutes were reviewed for July and August.

Richmond State Hospital (RSH): IPAS attended all three HRC meetings held this quarter. On 07/23/2014, IPAS raised two issues: 1) a patient who became intoxicated; and 2) proposed food restrictions. The HRC reported that a new dietician had been hired, and she wanted to see more healthy choices by the residents; however, no restrictions had been put in place yet. At the meeting on 08/27/2014, IPAS followed up on the proposed dietary restrictions. On 09/24/2014, there was a discussion of a recent lockdown due to smoking issues. This is a concern as all are being penalized for the indiscretions of a few.

302 Participate on selected committees, groups or task forces that have systemic implications concerning policies and practices affecting the rights of individuals with mental illness.

Mental Health America of Greater Indianapolis Adult Guardianship Committee (MHAGI): See “MULTIPLE PROGRAM PROJECTS.”

Elder Justice Convening: See “MULTIPLE PROGRAM PROJECTS.”

Indiana Adult Guardianship State Taskforce: See “MULTIPLE PROGRAM PROJECTS.”

Indiana Taskforce on Disability and Health: See “MULTIPLE PROGRAM PROJECTS.”

Interim Study Committee on Public Health, Behavioral Health, and Human Services: See “MULTIPLE PROGRAM PROJECTS.”

Administrative Rule Comment: See “MULTIPLE PROGRAM PROJECTS.”

Source of Income Testimony: See “MULTIPLE PROGRAM PROJECTS.”

Priority 4: Increase awareness and effective self-advocacy by providing education and training about disability rights and the exercise of these rights

Objectives:

**Protection and Advocacy for Individuals with Mental Illness
PAIMI, David Boes, Program Coordinator**

401 Conduct training concerning the civil and disability rights of individuals with mental illness for family members.

During the fourth quarter, there were no education/training events held.

402 Conduct resident rights training for consumers at selected Community Mental Health Centers.

During the fourth quarter, IPAS conducted 14 trainings attended by 106 individuals at four different community mental health centers.

405 Support the education and training events of consumer-based organizations holding events for consumers to increase their awareness of disability rights.

During the 4th quarter, IPAS provided scholarships for 40 consumers to attend the Key Consumer Annual conference.

406 Support the creation of a Crisis Intervention Team program in an Indiana Law Enforcement entity.

IPAS has reached out to offer support, but to date there were no requests for IPAS assistance.

Priority 5: Provide timely and accurate information about disability rights and technical assistance concerning the exercise of these rights.

Objectives:

501 Respond to requests for information and referral and technical assistance to individuals with mental illness, their families, and professionals that are requesting information concerning disability rights and provide technical assistance concerning the exercise of these rights.

General Problem area as coded in the IPAS Database (DAD)	4th Quarter Total	
Abuse	32	15%
Education	8	4%
Employment Discrimination	5	2%
Healthcare	5	2%
Housing	14	7%
Neglect	38	18%
Not Selected*	67	31%
Rights Violations	44	21%
Grand Total	213	

*Not Selected includes those Informational and Referral contacts not entered into the DAD database. Typically, support staff addresses these contacts, which include requests such as a specific provider's telephone number or for IPAS publications. These contacts lack sufficient information to allow entry of the General Problem into the DAD database.

PAIMI Report End

Protection and Advocacy of Individual Rights PAIR, Tom Crishon, Program Coordinator

I. STATISTICS

Informational Inquiries	134
Cases Carried over from Previous Quarter	29
New Cases Opened	20
Total Clients Served	49
Total Number of Individuals Served	183
Cases Closed at End of Quarter	15
Cases on Hand at End of Quarter	34

II. REPRESENTATIVE CASE

“Daniel,” age 54, contacted IPAS about being denied a sign language interpreter at a local dental office. Daniel, an individual with a visual impairment and a hearing impairment, attempted to schedule an appointment at a dental office and requested the assistance of a sign language interpreter for the appointment. Daniel was informed that the dental office did not provide interpreters and that he would need to bring his own. Daniel then contacted IPAS.

When the assigned IPAS advocate contacted the office, she was told that the office was short-staffed, the office would be unable to provide the services that Daniel required, and that he should seek services elsewhere. A few days later, the assigned IPAS attorney contacted the office to request the same services that Daniel was requesting. The office informed the IPAS attorney that an appointment could be scheduled for the following week.

A legal representation agreement was then entered into between IPAS and Daniel. The attorney then sent the dental office’s corporate office a letter alleging disability discrimination, demanding appropriate action, and stating that legal action would be pursued if an appropriate response was not received. Legal counsel for the dental office contacted the IPAS attorney to discuss the matter. Ultimately, the dental office agreed to provide Daniel with a dental appointment, provide all necessary auxiliary aids to ensure effective communication, provide Daniel with \$1,500 in compensatory relief, and provide IPAS with \$1,000 in attorney’s fees. A final settlement was agreed to and signed by the parties.

As a result of IPAS advocacy, Daniel was compensated for his time, inconvenience, and embarrassment, and was provided the necessary services he required, along with a sign language interpreter to ensure effective communication for those services, in compliance with Title III of the Americans with Disabilities Act (ADA).

III. LEGAL

Administrative Hearing: An IPAS client, through his legal guardian, wanted to go to an out-of-state rehabilitation center specifically designed for someone who has a traumatic brain injury (TBI). The rehabilitation facility submitted a pre-authorization application to Medicaid to pay for this rehabilitation which was denied. FSSA found that the client did not have a TBI because his injuries were a result of having brain tumors, not a traumatic injury or an anoxic event, meaning loss of oxygen to the brain. IPAS conducted extensive fact finding and determined that while the client did have a brain tumor he also had a fall while at a rehabilitation center for which he was hospitalized and

**Protection and Advocacy of Individual Rights
PAIR, Tom Crishon, Program Coordinator**

given a CT scan. He also had an anoxic event while recovering from surgery. We were able to get letters from two doctors where the doctors diagnosed our client as receiving a TBI from these events. Both doctors also found that it was medically necessary and a part of generally accepted medical practice for him to receive the rehabilitation offered at the out-of-state facility. They found this facility could offer him a chance to rehabilitate that in state facilities could not. It is our belief that this testimony means all the regulatory requirements for approval of the pre-authorization request have been met and he should be approved.

We learned that FSSA planned to argue that the guardian had not submitted his appeal timely. The appeal was filed prior to IPAS representation. The assigned IPAS attorney researched this issue and found that the appeal was filed timely. The Medicaid regulation states that a person has 33 calendar days from date of notice to file the appeal. The denial letter was dated October 30, 2013, postmarked Monday, November 4, 2013 and the appeal was filed December 4, 2013. Date of notice is not defined in the Medicaid Regulations but is defined in Indiana's Administrative Orders and Procedures Act (AOPA) which controls the rules for Administrative Hearings. In AOPA, date of notice is the date that the letter was deposited in the mailbox, plus three additional days are allowed to receive the letter. So, the end date should have been 36 days after November 4, 2013, and the appeal was filed well within that deadline. Unfortunately, the Hearing Officer decided to count the date of notice as the date on the letter and not grant three extra days for mailing. Therefore, she ruled that an appeal was not timely filed and dismissed the case. No explanation was given in the decision for not following AOPA.

IPAS believes that this decision is erroneous and we would be successful if it were appealed. We discussed the various options with the guardian and he decided that the option that is best for the client is to reapply. The client could reapply right away and IPAS believes that application could be done better this time. Specifically, it would include the doctors' recommendations diagnosing the client with TBI and explaining the medical necessity of the rehab center. The timing would be quicker as completing Judicial Review is a lengthy process. Finally, a successful Judicial Review would result in a new hearing. If the new pre-authorization application is denied again it would also result in a new hearing only quicker and based on a better application. IPAS agreed to assist in submitting the new application. The new application was submitted and prior authorization was granted this time.

Pre-Litigation Settlement: See the REPRESENTATIVE CASE for this quarter.

IV. PRIORITIES AND OBJECTIVES

Priority 1: Reduce or eliminate abuse and neglect of individuals with disabilities.

Objectives:

101 Review 20 allegations of abuse and neglect on behalf of individuals with disabilities to ensure that the allegation is reported to the responsible entities and advocate that necessary actions are taken to protect the health, safety and welfare of the individual.

Seven service requests were opened this quarter and one was closed. Twelve service requests remain open and will be carried over into FY 2015. For the year, IPAS reviewed 20 service requests under this objective, closing eight of those service requests. This objective was met for the fiscal year.

**Protection and Advocacy of Individual Rights
PAIR, Tom Crishon, Program Coordinator**

Priority 2: Reduce or eliminate discrimination or the denial of rights due to disability.

Objectives:

201 Review 30 allegations of discrimination under the Americans with Disabilities Act, Fair Housing Act, or other disability discrimination law.

Eight service requests were opened this quarter and ten were closed. Twelve service requests remain open and will be carried over into FY2015. For the year, IPAS reviewed 44 service requests under this objective, closing 32 of those service requests. This objective was met for the year.

Outcomes achieved for the closed service requests this quarter included:

- Reviewing an allegation of disability discrimination under Title II of the ADA on behalf of an inmate at the Pendleton Correctional Facility;
- Successfully advocating for a restaurant to make modifications to the restaurant entrance, restroom facilities, and parking lot to eliminate barriers for people with disabilities in compliance with Title III of the ADA;
- Successfully advocating for a nursing facility to provide a resident with a sign language interpreter to ensure effective communication, as required by Title III of the ADA; and
- Successfully advocating that an apartment complex in Indianapolis make a reasonable accommodation to its snow removal policy to ensure that a resident with mobility impairment could get to and from his vehicle in the winter months, in compliance with the federal Fair Housing Act.

203 Review three allegations of disability based discrimination that may have systemic implications.

No service requests were opened or closed this quarter. One service request remains open and will be carried over into FY2015. One additional service request was reviewed this fiscal year and was closed in the third quarter. Additionally, three projects were opened and two projects were closed this quarter. Nine projects remain open under this objective and will be carried over into FY2015. This objective has been met for the fiscal year.

The nine open projects include the following:

National Railroad Passenger Corporation (Amtrak): The first project involves IPAS's survey of the National Railroad Passenger Corporation, d/b/a Amtrak stations in Indiana. IPAS awaits contact by the DOJ concerning a disability discrimination complaint filed in September 2013. However, the Amtrak Office of the Inspector General released an audit report (OIG-A-2014-010) on August 4, 2014. The report noted that in the past two years, since the Amtrak Office of Inspector General's prior audit report, Amtrak has only made three stations compliant. Additionally, Amtrak is spending over 46% on project management rather than in actually improving accessibility. Additionally, the Amtrak Office of the Inspector General found that Amtrak spent money on non-ADA work and charged it to the ADA compliance budget.

Protection and Advocacy of Individual Rights PAIR, Tom Crishon, Program Coordinator

Royal Pin: The second project was opened to review the accessibility at four Indianapolis bowling centers. The goal is for these highly visible recreational centers to make any needed changes to their locations to bring them into compliance with the ADA. This quarter, IPAS completed its reviews/inspections of the four bowling facilities owned and operated by Royal Pin Leisure Centers, which facilities are the focus of this project. Particular attention and review was directed towards the accessibility of the bowling lanes; accessibility of the facilities generally; parking and routes of access; signage; and accessibility of restrooms, service counters, food service areas, and the seating areas behind the bowling lanes. IPAS legal reviewed the findings against the applicable ADA 2010 Standards for Access Design (ADA Standards), in order to pare the list to those areas and associated findings that appeared to be out of compliance. IPAS Legal then sent a letter to the General Manager of Royal Pin, who had been designated as the contact person for this dialogue, which set forth IPAS' findings, positions, and provided facility-specific lists of identified issues/problems citing the applicable ADA Standard for each item. Royal Pin has now employed private counsel to represent them and communicate on their behalf through this process. Counsel for the respective parties had initial, substantive communication in September, following which Counsel for Royal Pin did provide a letter of answer and position to IPAS Legal at the end of September. The assigned IPAS attorney is reviewing the letter, conducting further research and preparing an answer to the letter from Royal Pin's counsel.

National Center for Access to Justice: The third project was opened in response to a National Center for Access to Justice (NCAJ) report finding that Indiana ranked last in the use of best practices for making courts available to individuals with disabilities. There was no activity this quarter on this project.

Parking Lot Compliance: The fourth project was opened to advocate for business parking lots found to be out of compliance with ADA to make necessary corrections. There was no activity this quarter on this project.

Gas America: The fifth project involves accessibility at Gas America convenience stores and gas stations. Gas America was acquired by Speedway, LLC, the nation's fourth largest company-owned and operated convenience store chain and an indirect wholly owned subsidiary of Marathon Petroleum Corporation. IPAS will continue to communicate with legal counsel from Speedway to ascertain how that company has addressed or plans to address any ADA compliance issues at these newly-acquired locations.

Municipal Swimming Pool Surveys: The sixth project involves surveying swimming pools operated by several municipalities throughout the state for compliance with the ADA. See "MULTIPLE PROGRAM PROJECTS."

City of Indianapolis ADA Complaint Procedure: The seventh project, and one of the new projects opened this quarter, was opened to advocate for the City of Indianapolis to comply with Title II of the ADA and to adopt and publish an appropriate complaint procedure, as required by 28 C.F.R. § 35.107(b). This quarter, IPAS initiated contact, and subsequently met with the City's outside legal counsel. During the meeting, IPAS stated its position that the City needed to adopt and publish an appropriate Title II ADA complaint policy, procedure and form(s), and that those should be posted on the City's ADA website so they are accessible to the general public. The City's counsel acknowledged the City's responsibility to have an adopted and published ADA complaint policy, procedure and form(s) to comply with the applicable federal regulation, and that the City would be working on it in

Protection and Advocacy of Individual Rights PAIR, Tom Crishon, Program Coordinator

the near future. He went on to state that he and the Interim City of Indianapolis ADA Coordinator were the only employees in that section; that he was interviewing for a replacement for the ADA Coordinator's position; and that his office was short on supportive and financial resources. IPAS provided him with a copy of an ADA policy, procedure and form from another city in Indiana as an example, and a copy of the materials from the U.S. Department of Justice's ADA Title II toolkit, which includes a basic form that could be amended and used on the City's website to comply with the regulation. Work on this project is ongoing.

Olmstead: The eighth project, and one of the new projects opened this quarter, was created to explore what the State of Indiana has done since 1999 to comply with the *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999), Supreme Court decision. In *Olmstead*, the United States Supreme Court held that Title II of the ADA prohibits the unjustified segregation of individuals with disabilities. The Court held that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based treatment; and (c) community-based services can be reasonably accommodated, taking into account the resources available to the entity and the needs of others who are receiving disability services from the entity. *Olmstead v. L.C.*, 527 U.S. at 607. The Court noted that a State can meet its ADA obligations if it has (1) "a comprehensive, effectively working plan for placing qualified persons with mental disabilities in less restrictive settings"; and (2) "a waiting list that moved at a reasonable pace not controlled by the State's endeavors to keep its institutions fully populated." *Id.* at 584. This quarter, research was conducted to attempt to find the State's present *Olmstead* plan. Additionally, an Access to Public Records Act request was sent to the Secretary of the Indiana Family and Social Services Administration to request the current *Olmstead* plan, all previous *Olmstead* plans, and all public records related to the development of those plans since 1999. Work on this project is ongoing.

Subminimum Wage and Sheltered Workshops: The ninth project, and one of the new projects opened this quarter, was opened to investigate sheltered workshops and 14(c) wage and hour complaints and to advocate for fair wages for people with disabilities. See "MULTIPLE PROGRAM PROJECTS."

The two closed projects include the following:

Indiana University Tuition Refund Policy: The first closed project was opened to examine the Indiana University policy related to reimbursement of tuition based upon withdrawal from classes due to alleged physical, mental, or other impairment following the expiration of the standard tuition reimbursement scale applicable to all students over the first few weeks of the semester. Indiana University maintains a "Fee Policy Appeals" through which students who withdraw from classes after the standard period for refund to submit a request for refund that will be considered and approved or denied by a committee based upon the committee's review and determination as to whether "significant or unusual circumstances" exist to warrant refund of tuition for the period in question. Research of federal and state case law, as well as contact with the Great Lakes DBTAC, on this issue disclosed no precedent. IPAS did not find a systemic issue in regard to Indiana University's "Fee Policy Appeals" or in the process involved for review of the appeals by the Committee. However, in working this project, several issues were identified for which a letter was sent advocating for certain modifications of policies and practices. Based on IPAS's recommendations, Indiana University's policy restricting the ability of individuals with recurring temporary or permanent disabilities to seek second or subsequent refunds based on the same or similar disability-related conditions which prevented them from completing course work has been modified to remove that restriction; the

**Protection and Advocacy of Individual Rights
PAIR, Tom Crishon, Program Coordinator**

University has stated unequivocally that all fee refund requests will be considered independently and on their own merit without regard to previously filed and granted appeals; that the Indiana University ADA Coordinator for students will now participate in appeal deliberations which involve claims based on some form of disability related impairment; and that this information has been fully posted on the Indiana University Bursar's web page for the student population. This project was closed this quarter.

Indianapolis Museum of Art: The second closed project involved reviewing the accessibility of an outdoor exhibit at the Indianapolis Museum of Art. This project has been open since August 2012. Last quarter, IPAS emailed the 100 Acre Director with a request to respond to our concerns by June 30, 2014. No response was received. As a result, IPAS filed a disability discrimination complaint with the U.S. Department of Justice this quarter regarding the outstanding accessibility concerns. This project was closed this quarter.

204 Review allegations on behalf of five students where the school is not providing appropriate educational services.

Five service requests were opened this quarter and four were closed. The closed service requests involved ensuring that IPAS clients were receiving Free Appropriate Public Education. Nine service requests remain open and will be carried over into FY 2015. For the year, IPAS reviewed 26 service requests under this objective, closing 17 of those service requests. This objective was met for the fiscal year.

Priority 3: Increase awareness and effective self-advocacy by providing education and training about disability rights and the exercise of these rights.

Objectives:

301 Provide education and training about disability rights, self-advocacy skills and IPAS to individuals with disabilities, parents, guardians, advocates, and/or service program providers.

During the fourth quarter, there were five education/training events and two public information activities under this objective, reaching approximately 697 individuals. There were a total of 58 agency-wide education/training and public information activities (AW202) introducing IPAS services, including PAIR, to approximately 19,314 individuals.

During the fiscal year, there were a total of 20 education/training and public information activities under this objective, reaching approximately 1,995 individuals. There were a total of 194 agency-wide education/training events and public information activities (AW202) introducing IPAS services, including PAIR, to approximately 25,371 individuals. This objective was met for the fiscal year.

Additionally, a project remains open under this objective to conduct resident rights training – focusing on abuse/neglect and grievance procedures – at select Indiana nursing facilities.

302 Participate on selected committees, groups or task forces that have systemic implications concerning policies and practices affecting the rights of individuals with disabilities.

IPAS continues to participate in five committees, groups or task forces under this objective, including ADA Indiana Steering Committee; the Back Home in Indiana Alliance Steering Committee; Indiana

**Protection and Advocacy of Individual Rights
PAIR, Tom Crishon, Program Coordinator**

Task Force on Disability and Health; the Adult Guardianship Task Force; and the Elder Justice Convening. This objective was met for the fiscal year.

ADA Indiana Steering Committee: IPAS was represented at three of three meetings during the quarter. Throughout the quarter, the committee's focus included the ongoing ADA Audio Conference series sponsored by ADA Indiana and the Disability and Business Technical Assistance Center (DBTAC); the Legal Issues Webinar Series; ADA Community grants that are available to entities wanting to promote accessibility in their communities; ongoing referrals; and technical assistance and information dissemination. Over the year, ADA Indiana supported eight sites for the ADA Audio Conference series, with 261 participants attending. ADA Indiana also distributed 1,081 publications, provided technical assistance to 93 individuals, and conducted 64 training events. Finally, the ADA Community Grants for 2013 were provided to: City of Monticello, Disability Advisory Council; City of Indianapolis, Division of Homeland Security; The WILL Center; Bona Vista Programs, Inc.; and Fort Wayne Citilink. The 2014 grantees included: Southern Indiana Center for Independent Living; Indiana Chapter of Black Deaf Advocates; Evansville Human Rights Commission; and Hamilton Behavioral Health Center. IPAS was represented at nine of nine meetings this year.

Back Home in Indiana Alliance Steering Committee: No activity this quarter. IPAS was represented at two of two meetings this year.

Indiana Task Force on Disability and Health: See "MULTIPLE PROGRAM PROJECTS."

Indiana Adult Guardianship Task Force: See "MULTIPLE PROGRAM PROJECTS."

Elder Justice Convening: See "MULTIPLE PROGRAM PROJECTS."

Priority 4: Provide timely and accurate information about disability rights and technical assistance concerning the exercise of these rights.

Objectives

401 Respond to requests for information and referral and technical assistance to individuals with disabilities, their families, and professionals about disability rights and provide information and technical assistance concerning the exercise of these rights.

During the fourth quarter, IPAS responded to 134 PAIR information and referral inquiries. For the year, IPAS fielded 522 PAIR service requests for information and referral services. This objective was met for the fiscal year.

PAIR Report End

Client Assistance Program CAP
Cathy Wingard, Program Coordinator

I. STATISTICS

Informational Inquiries	35
Cases Carried over from Previous Quarter	10
New Cases Opened	4
Total Clients Served	14
Total Number of Individuals Served	49
Cases Closed at End of Quarter	9
Cases on Hand at End of Quarter	5

II. REPRESENTATIVE CASE

While there were no representative cases this quarter involving the first CAP priority, the following is a Vocational Rehabilitation Services-related rights violation case from this year that accomplished the objective of assuring that eligible individuals receive necessary VRS services so that they may remain in the workforce.

“Doris” contacted IPAS after she was found ineligible for VRS services with regard to obtaining hearing aids. She was employed. She had purchased hearing aids for herself in the past. The last time she did so was three years ago. Unfortunately, VRS reviewed her application and request for hearing aids under their rules for “replacement hearing aids,” which are stricter than for new hearing aids. Since VRS had not ever purchased hearing aids for Doris, this request was not a request for replacement hearing aids. As a result, even though Doris could show that she had an impediment to employment based on struggling with several communication requirements of her job, VRS still found her ineligible because she did not have a substantial change to her prescription. A substantial change in hearing is a category in VRS policy in determining eligibility for new hearing aids. Doris met the standard for the provision of new hearing aids, as she had an impediment to employment. This is a general eligibility requirement under the Federal Rehabilitation Act. She also met the specific hearing aid provision requirements per policy. The IPAS Advocate was able to negotiate with VRS prior to an administrative hearing, and they found Doris eligible for their services, assessed her needs, and provided her with hearing aids.

III. LEGAL

Judicial Review Petition: IPAS is representing a client in his appeal of the denial of educational financial assistance by VRS. VRS adopted a new process and calculation for determining the upper limit of financial assistance/need for post-secondary educational expenses in late 2011 without issuance of a new or amended policy or procedure. The primary argument is that the Policy and Procedure Manual (PPM) used by VRS meets the Indiana common law definition of a “rule,” is subject to the “Administrative Rules and Procedures Act” (ARPA) and its rule-promulgation provisions; that the PPM has not been promulgated; and therefore, under ARPA, the PPM is void. Based on the settlement reached in October 2013, through which IPAS’s client was reimbursed for his educational expenses as provided for in his Individual Plan for Employment, FSSA/VRS has now determined that it will promulgate its entire PPM as a whole, rather than in parts over an extended period of time. Towards that end, VRS convened work groups to review, amend, and compile the PPM to be promulgated. VRS has stated that it is approaching the end of the compilation process and is assembling the revised PPM to be proposed for adoption under ARPA. Ken Falk, Counsel for the class members, has stated that FSSA/VRS has targeted October 2014 to have the PPM ready for filing

Client Assistance Program CAP
Cathy Wingard, Program Coordinator

of notice to rule-make, which is the first step in the promulgation process. The case will remain open based on the fact that IPAS's client's case is one of the named causes in the class action. IPAS will close the case upon the resolution of the class action claim through completion of promulgation of the PPM.

Judicial Review Petition: See the "REPRESENTATIVE CASE" above as well as the preceding note regarding the PPM promulgation issue that is also involved in this case.

Administrative Hearing: IPAS has agreed to represent a client on an issue involving denial of educational assistance (tuition and books) for the Fall 2013 semester. FSSA/VRS declined to settle the individual reimbursement issue and is not admitting in the class action that it is legally required to promulgate its PPM. The administrative hearing for this case is now indefinitely continued pending the resolution of the class action in which the promulgation of VRS' PPM continues as an unresolved issue. IPAS cannot begin a separate litigation using the "Administrative Rules and Procedures" promulgation argument while the promulgation issue remains open and formally unresolved in the class action.

IV. PRIORITIES AND OBJECTIVES

Priority 1: Assure that eligible individuals receive appropriate Vocational Rehabilitation Services (VRS) and services through Centers for Independent Living (CIL)

Objectives:

101 Review complaints on behalf of individuals seeking employment services regarding VRS or CIL eligibility determination.

While there were no complaints received this quarter concerning VRS or CIL eligibility determinations, IPAS did open and respond to a total of eight complaints from individuals seeking VRS services this fiscal year. A majority of these complaints were reviewed and resolved via an informal resolution process with VRS. These informal meetings resulted in applicants having eligibility determinations expedited, having better understanding of the controlling laws and policies, and reestablished communication with VRS in cases where communication had been interrupted or nonexistent. Please see the representative case above.

Priority 2: Assure that Vocational Rehabilitation Services (VRS) and Centers for Independent Living (CIL) applicants and clients have the opportunity to make informed choices and fully participate throughout the VRS and independent living processes.

Objectives:

201 Review complaints regarding failure of VRS and CIL in providing choice to individuals seeking services under these programs.

IPAS reviewed two such complaints this quarter and 25 complaints for the year. IPAS advocacy within this priority included individual legal representation, explanation of VRS policy and procedure, assistance with re-establishing communication between a client and the VR Counselor, informal

**Client Assistance Program CAP
Cathy Wingard, Program Coordinator**

dispute resolution, mediation representation, review of employment plans for thoroughness, and examination of individual rights to services and to the appeal process.

“Matthew” requested assistance from IPAS to appeal a decision that he was not eligible for VRS services. Matthew had reported he was having difficulty hearing at work and that this was affecting his job performance. He applied for VRS services and asked them to assist him financially with the purchase of hearing aids. VRS denied his request as they did not feel his hearing loss was an impediment to employment and therefore concluded that he was not eligible for VRS services. IPAS fact-finding revealed that, contrary to the VRS assessment, Matthew’s hearing loss was affecting his ability to perform the essential functions of his job. The hearing officer agreed with IPAS and overturned the VRS eligibility decision. VRS amended Matthew’s employment plan to include hearing aids, and he is now able to maintain his employment as he is able to perform all necessary functions of his job.

202 Review the quality and completeness of Individual Plan for Employment documents developed by VRS as they relate to the individual’s identified vocational services and supports as well as choice(s).

During this quarter, IPAS advocates reviewed four VRS/client-developed employment plans to ensure that they reflected individual choices in terms of employment outcome, services to be provided, and service providers. During the year, IPAS advocates reviewed a total of 16 plans on behalf of individuals requesting IPAS assistance through the VRS process.

“Dean” requested assistance from IPAS because VRS required him to meet with a small business consultant prior to implementing his individual employment plan. IPAS fact-finding revealed that Dean’s small business plan had already been approved per VRS policy and that he was not required to meet with a small business consultant. VRS reversed this decision and agreed to support Dean’s small business enterprise.

203 Review the quality and completeness of Plan of Services documents developed by the CILs as they relate to the individual’s identified services and supports as well as choice(s).

IPAS did not receive any calls from individual applicants or clients involving the services of the Centers on Independent Living this quarter, and no service plans were reviewed. IPAS has maintained an active presence at the monthly ICOIL meetings by participating in ongoing dialogue about the independent living movement. During this year, IPAS advocates have also visited centers in Indianapolis, Vincennes, and Mitchell to inform them about the availability of CAP services.

Priority 3: Assure that VRS continues to provide services as mandated per the Federal Rehabilitation Act of 1973, as amended.

Objectives:

302 Participate on selected committees, groups or task forces that have systemic implications concerning policies and practices to assure compliance with the Rehabilitation Act of 1973, as amended.

The Indiana Commission on Rehabilitation Services met in September during this quarter. The policy oversight committee reviewed two appeal hearing decisions, one of which was written by a newly

**Client Assistance Program CAP
Cathy Wingard, Program Coordinator**

contracted FSSA administrative law judge (ALJ). The committee was also provided with a Report on Mediation that stated that the parties involved were unable to reach a settlement agreement. The issue in both appeals involved decisions by Vocational Rehabilitation (VR) Service Counselors (VRC) that an applicant for VR services was ineligible for services. In both cases the ALJ found that the VRC had based the decisions on the eligibility process outlined in the federal regulations as well as in Indiana's policy and procedure. The policy oversight committee also agreed that the findings had been based on applicable policy and the federal regulations. Topics of discussion during the committee's review included a university's responsibility versus VR's responsibility in providing ADA accommodations to the VRS client/student. Other areas of discussion included: providing accommodations to individuals participating in VR programs, gainful employment, under-employment, "upward mobility," and the appropriateness and statewide use of a form entitled, "Affirmation of Employee Need" used only for individuals who are deaf or hard of hearing. It was also discussed that many of the decisions that the oversight committee reviews involve the denial of requests for hearing aids, hearing aid replacements, or hearing aid repair (please see representative cases above). The committee recommended that the Commission consider inviting a person from that disability group to join the Commission and also to replace an existing VRC position with a person who is a Rehabilitation Counselor for the Deaf (RCD).

The IPAS CAP Program Coordinator met with the VRS Director and the VR Policy and Due Process Director for an update about the ongoing rule promulgation activities. VR will meet the October 1, 2014, timeframe to have the rules ready for review. The rules are in draft form at this time, and VR believes it has made a "good faith" effort in the promulgation process. VR will meet soon with the Attorney General's Office and the FSSA legal staff to review the draft rules before submission. IPAS will also attend the next statewide VR Supervisor meeting in October to present an overview of IPAS and CAP to be included in VR's Leadership Academy learning modules.

IPAS had a consistent presence on the VR Commission this year as well chairing the policy oversight, planning, and evaluation committee. This committee has become more involved as new members have joined and newer members have learned more about the rehabilitation process. The Commission is to provide advice and to be the consumer's voice. Many Commission members feel that the group's voice is being heard this year. During this year, VR has moved forward on all initiatives it has presented to the Commission, which include a focus on the transitioning youth, a review of sheltered workshop placements, goal setting per the fiscal five-year plan to draw down more federal dollars, creation of VR case coordinators positions, appointment of a new Director of Operations, review of rule promulgation committee reports, evaluation of quality assurance measures and rate reform for the community rehabilitation programs, and rolling out a new and improved VR case management system. Several IPAS advocates and staff attorneys participated in the work groups and provided input on these proposed draft policies.

During the quarter, IPAS attended two monthly Indiana Council on Independent Living (ICOIL) meetings. The ICOIL continues to wait for Bureau on Rehabilitation Services (BRS) to hire a new Council Coordinator. BRS has been developing a job description and taking applications for this position since the contract of the previous Coordinator expired earlier this year. ICOIL has provided training to Council members on the independent living movement and the council's by-laws. The ICOIL has made little progress on goals due to the absence of a Coordinator. IPAS attended 9 of the 12 monthly meetings this year. The primary focus of the ICOIL for the year was the completion of the State Plan for Independent Living.

**Client Assistance Program CAP
Cathy Wingard, Program Coordinator**

303 Provide education and training about employment, disability rights, self-advocacy skills and IPAS to individuals with disabilities, parents, guardians, families, advocates, and/or service program providers.

During this quarter there was one education/training/presentation event conducted under this objective and five public information/exhibit activities reaching approximately 15,611 individuals. There were 56 agency wide education/training/presentations and public information/exhibit activities introducing IPAS services including CAP to approximately 19,267 individuals.

Also during this quarter IPAS reviewed and updated the Transition Planning Handbook. Changes included information regarding Vocational Rehabilitation responsibilities during transition, Indiana Medicaid Waiver changes, and charter school requirements to provide special education services. This booklet is distributed at events under this objective.

Priority 4: Provide timely and accurate information about disability rights and technical assistance concerning the exercise of these rights.

Objectives:

401 Respond to requests for information and referral and technical assistance to individuals with disabilities, their families, and professionals regarding VRS or CIL.

IPAS intake advocates responded to 35 individuals in need of information and referral or technical assistance. Four new cases were opened this quarter to review specific complaints, and a total of 49 individuals were served under this objective. IPAS intake took more than 100 calls this year from individuals in need of information and technical assistance with regard to issues facing individuals with disabilities and their employment needs.

See "MULTIPLE PROGRAM PROJECTS" section on Sheltered Workshop Project.

402 Develop and disseminate transition materials to all transition aged students, aged 14 years through 22 years, in three Indiana school districts.

See "MULTIPLE PROGRAM PROJECTS" section on Transition Materials.

CAP Report End

**Protection and Advocacy for Assistive Technology
PAAT, Keith Butler, Program Coordinator**

I. STATISTIC

Informational Inquiries	3
Cases Carried over from Previous Quarter	0
New Cases Opened	0
Total Clients Served	0
Total Number of Individuals Served	3
Cases Closed at End of Quarter	0
Cases on Hand at End of Quarter	0

II. REPRESENTATIVE CASE

There were no cases closed this quarter.

III. LEGAL

Administrative Hearing: A client was in need of a power wheelchair. He applied to Medicaid for prior authorization. The request was rejected as not being medically necessary. Two separate experts, a physiatrist and an OTR concluded for medical reasons that a power wheelchair is a medically reasonable and necessary service. Our client's respiratory function is compromised by using a manual wheelchair. The power wheelchair can prevent pressure sores, is good for his back and decrease risk of DVT and edema. IPAS agreed to represent the client in an Administrative Hearing.

A hearing was held on December 19, 2013. The decision sustained the state's decision to deny a request for prior authorization of a power wheelchair and accessories. The decision rested on two conclusions, both of which IPAS believes are inaccurate. The denial states: "In order for any prior authorization request to be approved, consideration must be given to whether the item is medically reasonable and necessary for the treatment of an illness or injury or to improve the functioning of the body member. The evidence supports that the non-standard equipment is more to allow the appellant to position so that he would tilt to the left and to avoid potential medical conditions. State regulations do not allow for Prior authorization of DME for the prevention of a condition, but the improvement of the condition. It further does not allow for positioning of an individual."

IPAS disagreed with this decision because there is no state regulation that states the Durable Medical Equipment (DME) cannot be used to prevent a condition. Second, there is no evidence in the record, including the two evaluations provided by the Appellant and the two reviews submitted by the state, that state the primary purpose of the chair is so that our client would tilt to the left. Even if that were true, there is not regulation that states the Medicaid funding of wheelchairs does not allow for the positioning of an individual.

The client was undecided about whether to pursue an appeal or pay for a power wheelchair on his own. IPAS advised the client that we believed he had an appealable issue but also advised him of the time frame to pursue a Judicial Review which would be a minimum of six months and that if we received a favorable decision the case would be remanded for another administrative hearing. He had not decided which course to take by the time the Administrative Review appeal was due. Thus, IPAS filed for Administrative Review on his behalf. Administrative Review essentially always results in a decision favorable to the state. The Administrative appeal was denied. The client ultimately decided to purchase the wheelchair rather than continue with a Judicial Review.

**Protection and Advocacy for Assistive Technology
PAAT, Keith Butler, Program Coordinator**

IV. PRIORITIES AND OBJECTIVES

Priority 1: Increase independence and participation in communities by assuring access to assistive technology services and devices.

Objectives:

101 Assist individuals with disabilities in obtaining assistive technology services and devices in the areas of education, health care, employment, community living and in the use of telecommunications.

IPAS closed all five open cases during the third quarter and did not open any new cases for the fourth quarter. For the year, IPAS carried over nine cases into FY 2014 and opened two more closing all 11.

Additionally, IPAS began a project to assess the accessibility of municipal swimming pools in Indiana. See "MULTIPLE PROGRAM PROJECTS" section on municipal swimming pools.

102 Provide education and training about assistive technology, disability rights, self-advocacy skills and IPAS to individuals with disabilities, parents, guardians, families, advocates, and/or service program providers.

During the fourth quarter, there were no education/training events or public information activity under this objective. There were 56 agency wide education/training and public information activities (AW 202) introducing IPAS services, including PAAT, to approximately 19,267 individuals.

In fiscal year 2014, there were three education/training events and three public information activities under this objective reaching approximately 435 individuals. There were 192 agency wide education/training and public information activities educating individuals with disabilities, family members and the community regarding disability rights issues and introducing IPAS services, including PAAT, to approximately 25,324 individuals.

103 Participate in one assistive technology conference.

In the third quarter, IPAS attended the Indiana Assistive Technology Project's (INDATA) Assistive Technology 101 course which was an all day conference regarding AT. This conference met the objective for the year.

Priority 2: Provide timely and accurate information about disability rights and technical assistance concerning the exercise of these rights.

Objectives:

201 Respond to requests for information and referral and technical assistance to individuals with disabilities, their families, and professionals about assistive technology.

IPAS responded to three requests for information and referral this quarter. For the year, IPAS responded to 23 requests for information and referral.

PAAT Report End

**Protection and Advocacy for Traumatic Brain Injury
PATBI, Cathy Wingard Program Coordinator**

I. STATISTICS

Informational Inquiries	16
Cases Carried over from Previous Quarter	3
New Cases Opened	1
Total Clients Served	4
Total Number of Individuals Served	20
Cases Closed at End of Quarter	2
Cases on Hand at End of Quarter	2

II. REPRESENTATIVE CASE

“George,” an individual with a traumatic brain injury (TBI), called IPAS and alleged that he had been placed in a nursing home against his will and without cause. He asked that IPAS review his involuntary placement.

IPAS conducted a review of the allegation and learned that George had not been placed in the nursing home via a court order. Adult Protection Services (APS) was initially involved and assisted in finding a place where George could live as his sister would not allow him to return to her home after he had fallen several times and was hospitalized. APS had closed their case on George after he was placed and after IPAS became involved. They noted that there were efforts being made to find George an alternative placement once he was no longer a “fall risk.” IPAS informed the client that there was no evidence that he was legally required to stay at the nursing home. Prior to the conclusion of the case activities, IPAS learned that George had been discharged from the facility and had left the premises with his wife. IPAS could not substantiate a rights violation as George freely left the facility.

III. LEGAL

There were no legal activities this quarter.

IV. PRIORITIES AND OBJECTIVES

Priority 1: To reduce or eliminate abuse and neglect of individuals with traumatic brain injury.

Objectives:

101 Review five allegations of abuse and neglect on behalf of individuals with traumatic brain injuries to ensure that the allegation is reported to the responsible entities and advocate that necessary actions are taken to protect the health, safety and welfare of the individual.

By January 2014, IPAS had expended its partial TBI grant (awarded 2013) and as a consequence, only a few individuals with traumatic brain injuries were served due to a reduced federal budget. However, with restored funding as of May 13, 2014, IPAS was once again able to offer timely advocacy services on behalf of this group.

IPAS began the fourth quarter with one open case and no additional service requests were opened. One case was concluded and closed this quarter leaving zero cases carried over into FY 2015. IPAS

Protection and Advocacy for Traumatic Brain Injury PATBI, Cathy Wingard Program Coordinator

worked and closed one case under this objective for the year. IPAS has not reached its target number of five reviews for the year, in part due to funding.

Because of IPAS advocacy, “Jason” is now in a residential placement that is meeting his needs: IPAS received a call from a service case manager reporting that Jason had been placed in an inappropriate residential placement upon his release from the Indiana Department of Corrections. Jason had displayed violent and other inappropriate behaviors at the residential setting and was admitted to the hospital for stabilization. IPAS reviewed information regarding Jason’s ongoing health, safety and welfare. Due to Jason’s cognitive impairment, anger issues and aggressive tendencies, his doctor and service provider determined that Jason required a placement that could provide him with full-time care, services and supervision. After assessments were completed, it was recommended that Jason be placed in a facility that could provide the care, services and treatments, as well as supervision for his safety and the safety for other residents of the facility. IPAS monitored the new placement for a period of time and found that Jason was safe and thriving. IPAS could not substantiate that Jason’s health, safety or welfare were being neglected by the first provider but instead monitored and assured that his needs were being met after he moved to a new home.

Priority 2: Assure access to services for individuals that have traumatic brain injury.

Objectives:

201 Review allegations of discrimination on behalf of three individuals with traumatic brain injury who have been denied services under the ADA Title II and III, or Fair Housing Act and take appropriate action.

One service request was opened for fact finding during this quarter, however, the client failed to return the necessary signed “release of information” forms so the advocate was unable to proceed. The client had initially wanted assistance in obtaining reasonable accommodations while she attended a local university. Further contact with the client revealed that she had opted to transfer to another school. She declined IPAS advocacy. Of the two cases this quarter that were carried over from last quarter, one remains open and the other has been closed.

IPAS met and exceeded the goal of this objective this year by reviewing, advocating, and closing all but one case that was opened.

203 Review complaints on behalf of five individuals with traumatic brain injury seeking employment services from Indiana Vocational Rehabilitation Services.

There were no complaints received under this objective during the fourth quarter. Since May 2014, when PATBI funding was reinstated, there have been no reports made by individuals with traumatic brain injury about their rehabilitation services. This goal has not been met.

204 Review allegations that the school is not providing appropriate educational services on behalf of three students with traumatic brain injury.

Under this objective, IPAS did not receive any reports about inappropriate education services this quarter. For the year, two cases have been closed which does not meet the goal.

Protection and Advocacy for Traumatic Brain Injury PATBI, Cathy Wingard Program Coordinator

Priority 3: Increase awareness about IPAS' services and disability rights for individuals with traumatic brain injuries, their families and service providers.

Objectives:

301 Provide education and training about disability rights, self-advocacy skills and IPAS to individuals with traumatic brain injury, parents, guardians, advocates, and/or service program providers.

During the fourth quarter, IPAS provided education and training to the Evansville TBI Support Group and made contact with three Indianapolis-based and Fort Wayne-based support groups, reaching approximately 107 individuals. A total of 58 agency-wide education/training and public information activities were conducted which introduced IPAS services, including PATBI, to approximately 19,314 individuals.

In fiscal year 2014, there were ten education/training/presentation events and seven public information activities under this objective, reaching approximately 780 individuals. A total of 194 agency-wide education/training and public information activities were conducted which introduced IPAS services, including PATBI, to approximately 25,000 individuals.

302 Assist the Brain Injury Association of Indiana (BIAI) in planning and sponsoring of the Annual BIAI Conference.

The Indiana Brain Injury Association (BIAI) held their annual conference this year on September 12 and 13. The first day of the conference offered Resource Facilitation (RF) training for Vocational Rehabilitation Services (VRS) counselors and other interested individuals. RF is a strategy for helping people with TBI to reintegrate back in to their community after sustaining a brain injury by assisting them in developing a network of support and resources. VRS continues to sustain funding for RF services via their own funding sources while BIAI has implemented a learning management system to assist in the training and certifying of the facilitators. BIAI and IPAS serve as an information and referral source for RF. During the second day of the conference attendees were able to attend break-out information sessions and meet with vendors and conference presenters. IPAS was represented this year by our TBI Leadership Board member. She provided conference-goers with information about the PATBI program and the services that are available. IPAS has enjoyed a positive and productive working relationship with both the Leadership Board and BIAI this year. Goals for next year include a more active relationship with the 22 TBI support groups and continued outreach with regard to individual rights.

303 Participate on selected committees, groups or task forces that have systemic implications concerning policies and practices affecting the disability rights issues of individuals with traumatic brain injuries.

IPAS continues as a member on the Indiana Brain Injury Leadership Board. There have been three meetings held this year. The board has new direction with a new project. Rehabilitation Hospital of Indiana is spearheading a new Health Resources and Services Administration (HRSA) grant with the Indiana Department of Correction (IDOC) and Community Solutions. Indiana is now the second state in the country with HRSA funding to address TBI within the DOC population. The Board is also following efforts made by Indiana State Department of Health (ISDH) to maintain a Trauma Registry. They are using the Registry to develop a statewide trauma system to make sure that patients who are

**Protection and Advocacy for Traumatic Brain Injury
PATBI, Cathy Wingard Program Coordinator**

seriously injured get to the right place at the right time for medical care. The Registry uses data to measure and analyze all aspects of the system to ensure the highest quality of care is provided to all. As of November 2013, there is a mandate for reporting trauma data, but enforcement is still an issue. TBI falls in the traumatic injury range of codes required to be reported. Other state legislation with systemic implications includes:

House Enrolled Act 1358: This legislation requires ISDH to adopt rules that would establish a license and provide regulations for a facility that provides specialized treatment and services for individuals with traumatic brain injuries. ISDH held a rule planning meeting in July and asked stakeholders for input prior to the creation of a draft rule. Rule promulgation is currently underway and ISDH has created a web page that houses information about their continued efforts to bring this task to a successful end. IPAS will provide feedback as this process progresses.

Senate Enrolled Act 222: This SEA has been introduced and would put in place more stringent guidelines with regard to high school student athletes with suspected concussion or head injury.

Priority 4: Provide timely and accurate information about disability rights and technical assistance concerning the exercise of these rights.

Objectives:

401 Respond to requests for information and referral and technical assistance to individuals with traumatic brain injury, their families, and professionals about disability rights and provide information and technical assistance concerning the exercise of these rights.

IPAS received 16 calls from individuals requesting information about the PATBI program. The IPAS website also had increased activity this year as more than 5,000 individuals visited the site for the first time.

PATBI Report End

**Protection and Advocacy for Voting Access
PAVA, Keith Butler, Program Coordinator**

I. STATISTICS

Informational Inquiries	4
Cases Carried over from Previous Quarter	0
New Cases Opened	0
Total Clients Served	0
Total Number of Individuals Served	4
Cases Closed at End of Quarter	0
Cases on Hand at End of Quarter	0

II. REPRESENTATIVE CASE

There were no cases closed this quarter.

III. LEGAL

There were no legal activities this quarter.

IV. PRIORITIES AND OBJECTIVES

Priority 1: To ensure full participation in the electoral process for Individuals with disabilities.

Objectives:

101 Develop and distribute information concerning voter registration, access to polling places and the right to cast a vote, including information regarding the state's grievance procedure and the role of IPAS in representing individuals.

IPAS did outreach regarding voting issues for people with disabilities including distributing materials at 83 different disability-related organizations and facilities in the fourth quarter. For the year, IPAS conducted outreach at 154 facilities. Materials continue to be ordered and revised as needed.

Additionally, a voting rights information postcard was developed and 5,000 postcards were mailed to a minority populated area of the state in the third quarter.

Priority 2: To provide education, training and assistance to individuals with disabilities that will promote their participation in the electoral process.

Objectives:

201 Respond to education, training and assistance requests to individuals with disabilities that will promote their participation in the electoral process.

During the fourth quarter, there were 21 education and training events reaching 507 individuals. IPAS attended a total of 56 agency-wide education/training and public information activities through which it introduced IPAS' services, including PAVA, to approximately 19,267 individuals.

Fourth Quarter July 1- September 30, 2014

Protection and Advocacy for Voting Access PAVA, Keith Butler, Program Coordinator

A total of 3,182 voting related publications were distributed at events and activities during this quarter. A total of 11,093 IPAS publications were distributed at events during this quarter.

During fiscal year 2014, there were 58 education and training events under this project reaching 1,508 individuals. IPAS participated in 191 agency-wide education and training and public information activities through which it introduced IPAS, including PAVA, to approximately 25,219 individuals.

A total of 13,398 voting related publications were distributed to the public at events and activities.

Priority 3: Participate in advocacy and education efforts revolving around HAVA implementation efforts in their State or Territory.

Objectives:

301 Respond to request for information or training material regarding Help America Vote Act.

During the fourth quarter, 3,182 pieces of IPAS-created HAVA informational materials were distributed:

782 Voting Guides
1072 PAVA Brochures
10 PAVA Brochures – Spanish
782 Voting Information Bookmarks
536 Voting Information Postcards

During fiscal year 2014, 13,398 pieces of IPAS-created, HAVA informational materials were distributed:

2242 Voting Guides
3055 PAVA Brochures
10 PAVA Brochures - Spanish
2555 Voting Information Bookmarks
5536 Voting Information Postcards

Priority 4: Training and education of election officials, and poll workers, about best practices in working with individuals with disabilities.

Objectives:

401 Respond to request by election officials, poll workers, and election volunteers regarding the rights of voters with disabilities and best practices in working with individuals with disabilities.

The PAVA Program Coordinator communicated with our contact at the Secretary of State's Office regarding participating in their "train the trainer" sessions at the county clerk's meetings. Unfortunately, these sessions were not held in 2014. Thus, IPAS was unable to complete the outreach

**Protection and Advocacy for Voting Access
PAVA, Keith Butler, Program Coordinator**

to poll workers that had been done in prior years. IPAS does continue to contact people at the Secretary of State's office associated with the Help America Vote Act (HAVA). We were also able to get the contact information for the current President of the County Clerk Association and will work to get on the agenda at future meetings. IAPS, over the last several years, has presented at these meetings twice a year and sent materials to all of the clerks' offices; thus, even though no formal presentation was made this year, clerks are aware of IPAS and know we are a resource.

Priority 5: To assist individuals with disabilities in filing complaints required by HAVA and represent individuals with disabilities in any hearing that may be held regarding the complaint.

Objectives:

501 Respond to requests for information and referral and technical assistance to individuals with disabilities, their families, and professionals about the Help America Vote Act.

IPAS received and responded to four requests for information and referrals related to voting this quarter. For the year, IPAS received and responded to 13 requests related to voting.

502 Assist or represent individuals with disabilities in the grievance procedure set forth in the Indiana HAVA plan.

There were no open PAVA cases in the fourth quarter. IPAS opened and closed one case this year. The only election held during fiscal year 2014 was the primary in May.

Priority 6: To provide assistance to State and other governmental entities regarding the physical accessibility of polling places.

Objectives:

601 Respond to requests from governmental entities regarding the physical accessibility of polling places.

There was no activity to report under this objective during the fourth quarter.

Priority 7: To obtain training and technical assistance on voting issues, including education regarding accessible voting equipment and systems.

Objectives:

701 As needed provide in-service training to IPAS staff regarding voting issues, including education regarding accessible voting equipment and systems.

The PAVA Program Coordinator provided training to IPAS staff regarding how to conduct outreach and training sessions during the year. These sessions took place prior to the fourth quarter. Sample training materials were also provided to staff. Materials continue to be developed and made available to IPAS staff to assist in the activities performed under this objective.

PAVA Report End

Protection and Advocacy for Beneficiaries of Social Security PABSS, Program Cathy Wingard, Coordinator

I. STATISTICS

Informational Inquiries	20
Cases Carried over from Previous Quarter	2
New Cases Opened	7
Total Clients Served	9
Total Number of Individuals Served	29
Cases Closed at End of Quarter	1
Cases on Hand at End of Quarter	8

II. REPRESENTATIVE CASE

There are eight social security beneficiaries who are currently receiving assistance from IPAS through the PABSS program. Recently, IPAS was contacted by “Ron” who asked for assistance so that he could return to work. Ron reported that he had requested, but was not receiving employment services at his current residential placement (rehabilitation center) that would enable him to return to work upon his release. While the caller did not have a dispute with a specific employment network (EN), the PABSS grant allows IPAS to protect the rights of beneficiaries who are seeking “other support services” from ENs and “other providers.” The advocate is currently assisting the client by reviewing his rehabilitation plan, making referrals to appropriate entities such as Indiana Vocational Rehabilitation Services, and meeting with the beneficiary to explore employment options, to explain the Social Security Administration’s (SSA) “Ticket To Work” program, and to determine what other assistance he needs once he transitions out of the rehabilitation center.

III. LEGAL

There were no legal activities this quarter.

IV. PRIORITIES AND OBJECTIVES

Priority 1: Provide assistance to Social Security beneficiaries to secure or restore employment and support services from employment networks.

Objectives:

101 Review complaints of improper or inadequate services provided to a beneficiary by a service provider, employer or other entity involved in the beneficiary’s return to work effort.

IPAS provided assistance to seven individuals who receive SSA benefits this quarter. Below is an example of the type of review that is conducted on behalf of individuals with disabilities who experience discrimination in the hiring process.

“Kasey” requested that IPAS advocate for her part-time job to be reinstated. Kasey was a Social Security Disability Insurance beneficiary. She applied for a job as a part-time occupational therapist for a health care provider. The employer had accepted her application, had offered Kasey a job, and required her to complete a form that asked for her age, beneficiary status and disability. After she provided this information, the employer told her that they did not need her services. Kasey felt that

Protection and Advocacy for Beneficiaries of Social Security PABSS, Program Cathy Wingard, Coordinator

she was being discriminated against based on her disability. IPAS initially opened this service request due to concerns about the disability inquiries during the hiring process. Through fact finding and further legal research, the advocate determined that the employer was permitted to make those inquiries when they did; during the post-job offer period. What remained to be seen was whether the employer used this information as a basis to later decide to discontinue her employment. IPAS offered Kasey representation so that IPAS could advocate for reinstatement of her job. Kasey decided she did not want to work for the health provider company but was interested in seeking back pay from the company as she had in fact been hired and had attended some orientation instruction. IPAS referred her to the Equal Employment Opportunity Commission (EEOC) for further assistance.

Twenty-two service requests were opened and reviewed this year. Eight of those are still under review while fourteen have been closed.

Priority 2: Provide information and referral to Social Security beneficiaries about work incentives and employment.

Objectives:

201 Respond to requests for information and referral and technical assistance to Social Security beneficiaries about work incentives and employment, including information on the types of services and assistance that may be available to assist them in securing or regaining gainful employment.

IPAS intake advocates responded to 20 requests for information about Social Security benefits, work incentives and services that are available to assist in securing employment or returning to work after an absence due to a disability.

202 Develop and disseminate transition materials to all transition aged students, aged 14 years through 22 years, in three Indiana school districts.

See “MULTIPLE PROGRAM PROJECTS” section on Transition Materials.

203 Conduct other outreach activities.

During the fourth quarter, multiple education/training/presentation events were conducted under this objective. There were a total of 48 agency wide education/training events and 8 public information activities to provide disability rights information and introducing IPAS and the PABSS program to approximately 19,267 individuals. Also in the quarter, there were 11,093 IPAS program/informational publications distributed to the community at events and other activities.

During the year, these events included outreach activities to specific targeted groups including attendees of the Indiana Vision Expo, school corporations and special education cooperatives transitioning student events, independent living centers, sheltered workshops, Vocational Rehabilitation Service offices, disability-focused conferences, and Social Security Administration offices. More than 25,000 individuals were provided with information about IPAS this year. IPAS has also continued to reach out via social media and this year has seen significant gains in visitors to the IPAS website (38,000), Facebook “Likes” (300), Twitter network messaging (72), and e-newsletter subscriptions (471).

Protection and Advocacy for Beneficiaries of Social Security PABSS, Program Cathy Wingard, Coordinator

See “MULTIPLE PROGRAM PROJECTS” section on Sheltered Workshop Project.

Priority 3: Representative Payee Monitoring

Objectives:

301 Conduct financial review and interviews of SSDI and/or SSI beneficiaries whose benefits are being managed by a Representative Payee for the purpose of ensuring that their living conditions are safe (when the Representative Payee is also providing housing) and that their needs are being met.

The Social Security Administration (SSA) contracted with the National Disability Rights Network (NDRN) and IPAS to conduct eleven Representative (Rep) Payee surveys this year. These survey results assist SSA in verifying that Rep Payees are meeting the basic living needs of beneficiaries. If IPAS finds evidence that the Rep Payees are not acting in the best interest of the beneficiaries, IPAS contacts NDRN immediately if life/health endangerment is found or the advocate can note other less serious issues in the interim and final reports that are submitted to NDRN and SSA soon after the reviews. Eight surveys were completed in the first three quarters of the fiscal year and three surveys were completed and reports submitted and approved this quarter. IPAS recommended that SSA follow up on specific issues after several reviews but advocates did not find any beneficiaries to be endangered. IPAS surveyors also referred beneficiaries to those seeking other types of advocacy to IPAS as warranted and to other disability-related service providers. NDRN has indicated that SSA will assign IPAS an additional ten surveys in the upcoming year and may ask IPAS to identify and recommend specific Indiana representative payee organizations or individuals for review.

PABSS end

Multiple Program Projects

Administrative Rule Comment: (PADD/PAIMI/PAIR/PATBI) On April 28, 2014, IPAS submitted several comments regarding Indiana's proposed seclusion and restraint rules. On May 5, 2014, the Commission on Seclusion and Restraint filed a Notice that the rules as written would not yet be approved due to "extended consideration, including multiple public hearings, of appropriate rules for seclusion and restraint in schools." Furthermore, IC 20-20-40-13 required the commission to develop a model restraint and seclusion plan. The Commission reported that final approval by the Governor is expected not later than December 31, 2014.

On September 24, 2014, the final rules on seclusion and restraint were published. Only one of IPAS's comments was incorporated into the rules regarding applying the seclusion and restraint rules to after hours and extracurricular activities.

Elder Justice Convening: (PADD/PAIMI/PAIR) Indiana Association of Area Agencies on Aging and the Division of Aging sought to convene representatives of as many of organizations serving the aged and disabled as possible. The purpose of this gathering was to gain an improved understanding of how elder justice issues impact all of our organizations, to understand the threads of interdependency and to discuss planned and potential initiatives designed to improve our response to these challenges and to strengthen the systems in Indiana that protect vulnerable Hoosiers, into which the disabled community falls.

The Elder Justice Convening conference did not have any activity in the fourth quarter. When the group initially met, it was suggested to maintain contact among members and to reconvene in six months or possibly quarterly. The members do have contact information for participants and another Convening conference may occur in the future. IPAS participated in the one meeting held by this committee since its inception.

Indiana Adult Guardianship State Taskforce: (PADD/PAIMI/PAIR) IPAS attended the Indiana Adult Guardianship State Task Force quarterly meeting. Attendees were provided with updates regarding the pilot pro bono/volunteer guardianship program as well as the legislation relating to a guardianship registry. Also discussed were action items for the upcoming year with the following recommendations: (1) Establishing a state supported and funded Office of Adult Guardianship as a department of the Indiana Supreme Court, Division of State Court Administration; (2) establishing a state supported and funded system of community-based volunteer guardian services; (3) mandatory guardian education, certification and registry for all attorney/professional/ non-family member guardians; (4) creation of an adult guardianship registry to collect data and issue reports on all adult guardianship cases and guardians; (5) undertaking a review of the Indiana Probate Code regarding guardianship; and (6) establishing a referral resource center to assist families for substitute decision-making. IPAS contributed to these discussions and urged action toward incorporating certain aspects of supported decision-making as well.

Indiana Task Force on Disability and Health: (PADD/PAIMI/PAIR) This quarter, the Task Force met three times. During said meetings, members continued to respond to expert data on health disparities involving chronic illnesses and share insight as to the issues, needs and challenges associated with chronic illness amongst people with disabilities. Further recommendations were made regarding priorities in research and action.

It is anticipated that during the next two meetings the task force will work to finalize the priority recommendations for the chronic health conditions, then review and accept final recommendations

Multiple Program Projects

and strategies for both the behavioral risks and chronic conditions for use in the committee's final report. The furtherance of this committee was made possible as the contract with the Institute on Disability and Community and Indiana State Department of Health and has been extended for another year.

Interim Study Committee on Public Health, Behavioral Health, and Human Services:

(PADD/PAIMI/ PAIR) IPAS attended one of this committee's meetings during this fiscal year. Said meeting consisted of First Steps explaining to the committee their program and the number of children they serve. Additionally, Visually Impaired Preschool Services (VIPS) informed the committee of their services and the Indiana areas in which they have provided services.

Logansport State Hospital (LSH) Human Rights Committee Meeting: (PADD/PAIMI) IPAS did not attend any of the three Human Rights Committee meetings held at Logansport State Hospital during this quarter. Reason being, the assigned IPAS advocate has taken an approved leave of absence from employment.

Mental Health America of Greater Indianapolis Adult Guardianship Committee (MHAGI):

(PADD/PAIMI) Although this committee did not hold any meetings during this quarter, during the 2014 fiscal year, MHAGI held two meetings. IPAS attended both.

Municipal Swimming Pool Surveys: (PAAT/PAIR) IPAS advocates surveyed pools in several cities throughout Indiana. The surveys were completed in July. IPAS legal is currently reviewing results of those surveys and will make determinations regarding whether each city's swimming pools are accessible pursuant to Title II of the Americans with Disabilities Act. If IPAS determines that a city's pools are inaccessible, IPAS will begin discussions with that city regarding making the pools accessible and leaving open the possibility for litigation, if necessary.

Sheltered Workshops Monitoring Activities: (PADD/PABSS) IPAS has undertaken the task of assuring that employees working in the state's sheltered workshops (facility-based work centers) have access to assistive technology (AT) and reasonable accommodations (RA); that they are provided a safe environment to work in; that they have choice in the work that they perform; and that they have opportunity to move in to community-based employment. Secondary areas of focus are: facility policies on clients' rights and facility grievance policies regarding pay.

During this quarter, IPAS surveyed three facility-based work centers (sheltered workshops). They included Janus Developmental Services, Four Rivers Resource Services and Blue River Services. IPAS attempted to survey another program, but the program representatives failed to respond to IPAS correspondence.

A total of 210 individuals with disabilities are involved with these three workshops, 173 of whom are paid for their services. Their hourly wage ranged from \$0.67 per hour to \$7.25 per hour. In addition to employment, these agencies also provided transportation services, adult day vocational services, vocational evaluation services, vocational adjustment services, in-home services and supported employment services to individuals with disabilities. Findings were that five individuals had recently "graduated" from sub-minimum wage jobs in the facility to community-based jobs.

IPAS discovered that all of these facilities had specific policies in place to address consumers' needs for workplace accommodations or assistive technology. All three facilities have policies to address

Multiple Program Projects

safe work environments and ensure that clients receive training on safe ways to perform their jobs. Clients are provided gloves and other equipment by their employers. The facilities offer their clients choices in terms of scheduling and in the type of work they do. Some of the clients work in community-based employment and have opportunities for promotion. Many of the clients know about Vocational Rehabilitation Services, although Vocational Rehabilitation Counselors are often not involved after clients are employed at the workshops. All three workshops have client handbooks that describe client rights, grievance procedures, pay, safety, drug screening, dress code and code of conduct. The site surveys included interviews with 15 clients, all of whom reported that they like their jobs and their employers.

During this year, IPAS has surveyed thirteen programs. Two of these facilities no longer have 14(c) certifications and no longer maintain sheltered workshop programs. The surveys involved at least 3,375 people, of whom approximately 2,400 are people with disabilities.

Subminimum Wage Project (PADD/PAIR/PATBI) A project was started looking at the practice of paying subminimum wages to people in sheltered workshops. The sheltered workshop/sub-minimum wage project was started based on a national initiative from NDRN focusing on the issue of employment for people with disabilities. The Legal Director and several IPAS staff have attended online trainings about this project. The project involves two separate issues:

(1) Federal - looking at those organizations holding federal 14(c) certifications, which exempt them from having to pay minimum wage. This part of the project is designed to make sure that those who are paying sub-minimum wages have complied with all necessary requirements. A FOIA request was drafted and sent out to the federal Department of Labor at the end of the quarter.

(2) State - looking at the state statute, which explicitly exempts sheltered workshop workers from the definition of “employee.” Research has begun to find examples of companies who are paying sub-minimum wages but do not fall under the statutory exemption definition as well as to brain storm ways to challenge the validity of the statute.

Source of Income Testimony: (PADD/PAIMI/PAIR) IPAS provided written testimony at the request of Marion County Councilman, Leroy Robinson, for the August 5, 2014 council meeting. The testimony was to provide information about the impact of Proposal 215 on people with disabilities. The proposal was aimed at including “source of income” as a prohibited means of discrimination in areas of equal opportunity including housing and employment. The proposed code did not pass and was not sent to the full Council for consideration.

Transition Materials: (CAP/PABSS) The objective was to provide a minimum of three school corporations/special education cooperatives with a transition planning guide, developed by IPAS and Indiana Public Schools, to be distributed to all students with disabilities or their parents and guardians. The handbook contains valuable resource information and transition planning timelines for families with children with special needs, including information about IPAS.

During this quarter, six schools were contacted and arrangements were made to have the guides delivered to each school. The schools included Liberty-Perry School Corporation, Crawfordsville High School, Sanders Elementary School, West Central Special Services, Grant/Clark Co-op, and Exceptional Children’s Co-op. During the quarter a total of 2692 guides were distributed to schools and other entities interested in the publication. Also during this quarter, IPAS staff revised and

Multiple Program Projects

updated the handbook to include new and updated information about charter schools, the Benefits Information Network, and other changes in special education rules and transition requirements. This amended handbook will be submitted to the Social Security Administration in the first quarter for their approval prior to printing.

This objective has been met and exceeded for FY 2014 as over a dozen schools have agreed to distribute the planning guide this year. Over 4000 guides were distributed to students and families who have children with disabilities. These guides provide guidance in identifying options and planning strategies as their child transitions from school, where students have been entitled to a free appropriate public education, to adult services that are based on eligibility and availability of funds. This project will continue in to the next year.

COMMISSION MEMBERS

DOUGLAS GOEPPNER
CHAIRPERSON
DUBOIS CO.

KYLE LLOYD
VICE CHAIRMAN
GRANT COUNTY

LINDA DRIGGS
SECRETARY
CLINTON COUNTY

MARCI HAW
MARION COUNTY

MARY HUNNICUTT
ALLEN COUNTY

MELANIE MOTSINGER
ALLEN COUNTY

JUSTIN OGDEN
MARION COUNTY

WILLIAM RIGGS, PH.D
HANCOCK COUNTY

ROBERT WALSON
MARION COUNTY

THERESA WILLARD
HAMILTON COUNTY

NANCY SLATER
HAMILTON COUNTY

SUSAN SMITH
MIAMI COUNTY

ADVISORY MEMBERS

JEAN LEISING
SENATOR
FRANKLIN/RUSH/SHELBY/HENRY CO.

DALE DEVON
REPRESENTATIVE
ST. JOSEPH COUNTY, MISHAWAKA

MENTAL ILLNESS ADVISORY COUNCIL

NANCY SLATER
CHAIRPERSON
HAMILTON COUNTY

LEISA BARBER
VICE CHAIR
SPENCER COUNTY

RONDA AMES
MARION COUNTY

VICKI COPELAND
HAMILTON COUNTY

LYNDA SNIDER
PORTER COUNTY

DEBRA SWITZER
VANDERBURGH COUNTY

EXECUTIVE STAFF

DAWN ADAMS
EXECUTIVE DIRECTOR

MELISSA KEYES
LEGAL SERVICES DIRECTOR

DAVID BOES
SUPPORT SERVICES DIRECTOR
PAIMI PROGRAM COORDINATOR

SUPPORT SERVICES

ANTHONY LIGGINS
DATA ENTRY CLERK

KAREN PEDEVILLA
EDUCATION & TRAINING DIRECTOR

VACANT
ADMINISTRATIVE SECRETARY

DORIS THOMPSON-WILSON
ACCOUNTANT

JUDITH I. WADE
ACCOUNTANT

CLIENT AND LEGAL SERVICES

THOMAS CRISHON
ATTORNEY
PAIR PROGRAM COORDINATOR

DAVID SMITH
ATTORNEY

KEITH BUTLER
ATTORNEY
PAAT/PAVA PROGRAM COORDINATOR

GRANT HELMS
ATTORNEY

AMY J. PENROD
ASSISTANT DIRECTOR OF CLIENT SERVICES
PADD PROGRAM COORDINATOR

CATHY WINGARD
ASSISTANT DIRECTOR OF CLIENT SERVICES
CAP & PATBI PABBS PROGRAM COORDINATOR

MARY ALTER
ADVOCACY SPECIALIST

BONNIE BOMER
ADVOCACY SPECIALIST

DEBBIE DULLA
ADVOCACY SPECIALIST

CANDACE FEGLEY
ADVOCACY SPECIALIST

TINA FRAYER
ADVOCACY SPECIALIST

ALLYSON HAMMONDS
ADVOCACY SPECIALIST

NATASHA HENRY
ADVOCACY SPECIALIST

DEON JONES
ADVOCACY SPECIALIST

TONYA PATTERSON
ADVOCACY SPECIALIST

SHARI STITES
ADVOCACY SPECIALIST

BONITA VAN DE GRIFT
ADVOCACY SPECIALIST

DANIEL WARD
ADVOCACY SPECIALIST

MICHELE WIND
ADVOCACY SPECIALIST

TASC/NDRN
Commonly Used Acronyms

ACF -	Administration for Children and Families
AC -	Advisory Council
ADA-	Americans with Disabilities Act
ADD -	Administration on Development Disabilities
ATC -	Assistive Technology Center
ATTAC -	Advocacy Training and Technical Assistance Center
CMHS -	Center for Mental Health Services
CAP -	Client Assistance Program
CCD -	Consortium of Citizens with Disabilities
CMS -	Center for Medicare and Medicaid Services (formerly HCFA)
DAD -	Disability Advocacy Database
DDARS	Division of Aging and Rehabilitation Services
DD -	Developmental Disabilities
DD Act -	Developmental Disabilities Assistance and Bill of Rights Act
DDC -	Developmental Disabilities Council
DSA -	Designated State Agency
EEOC	Equal Employment Opportunity Commission
HAVA-	Help America Vote Act
HCFA -	Health Care Financing Administration
HRSA -	Health Resources and Services Administration
IDEA -	Individual with Disabilities Education Act
ILCs -	Independent Living Centers
LD -	Learning Disability
MI -	Mental Illness
MR -	Mental Retardation
MTARS -	Monitoring and Technical Assistance Review System
NAPAS -	National Association of Protection & Advocacy Systems (Now NDRN)
NDRN-	National Disabilities Rights Network
NIDRR -	National Institute on Disability Rehabilitation Research
OMB -	Office of Management & Budget
OSERS -	Office of Special Education Rehabilitation Services
P&A -	Protection & Advocacy System
PAAT -	Protection & Advocacy for Obtaining Assistive Technology
PABSS -	Protection & Advocacy for Beneficiaries of Social Security
PADD -	Protection & Advocacy for Persons with Developmental Disabilities
PAIMI -	Protection & Advocacy for Individuals with Mental Illness
PAIR -	Protection & Advocacy for Individual Rights
PATBI -	Protection & Advocacy for Persons with Traumatic Brain Injury
PPR -	Program Performance Report
PR -	Public Relations
SAMHSA-	Substance Abuse and Mental Health Services Administration
SOP -	Statement of Objectives & Priorities
SSA -	Social Security Administration
RSA -	Rehabilitation Services Administration
Rehab Act -	Rehabilitation Act
TASC -	Training and Advocacy Support Center
TASR -	Technical Assistance Site Review (CMHS)
TBI -	Traumatic Brain Injury
Tech Act -	Technology-Related Assistance for Individuals with Disabilities Act
UAP -	University Affiliated Program
UCDD -	University Centers for Excellence in Development Disabilities Education, Research and Service

The Following are more Acronyms commonly used at IPAS:

ACLU	American Civil Liberties Union
APS	Adult Protective Services
ARC	State and local organizations for developmental disability advocacy
ARTICLE 7	Special Education Regulations (INDIANA)
DCS	Department of Child Services
DDRS	Division of Disability and Rehabilitative Services
DMHA	Division of Mental Health and Addictions
DOC	Indiana Department of Corrections
DOE	Department of Education
EEOC	Equal Employment Opportunity Commission
IDEA	Individuals with Disabilities Education Act (Federal)
ICF	Intermediate Care Facility
ICLU	Indiana Civil Liberties Union
IPE	Individual plan for employment
Institute,	The Indiana Institute on Disability and Community
IPIN	Indiana Parent Information Network based in Indianapolis
IN*SOURE	Indiana's Parent Training Information Project based in South Bend
IPE	Individual Plan for Employment a VR term
OCR	Office of Civil Rights
QRMP	Qualified Mental Retardation Person
QRMP-D	Qualified Mental Retardation Person-Designee (Unique to Indiana, RULE 7)
RULE 7	Part of Nursing Home Regulations (Indian) concerning the facility's requirements for programming for MR residents used in QMRP-D Training
USDOE	United States Department of Education
VR / Voc Rehab	Vocational Rehabilitation Services
504	Section 504 of the Rehabilitation Act of 1973-504

State Hospitals (SOFs):

LCH	Larue Carter Hospital
LSH	Logansport State Hospital
EPCC	Evansville Psychiatric Children's Center
ESH	Evansville State Hospital
MSH	Madison State Hospital
RSH	Richmond State Hospital